TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 195 27.

LI SING, PETITIONER,

vs.

THE UNITED STATES.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

PETITION FOR CERTIORARI FILED JANUARY 31, 1900.
CERTIORARI AND RETURN FILED APRIL 30, 1900.

(17,274.)

(17,274.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 195.

LI SING, PETITIONER,

vs.

THE UNITED STATES.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

INDEX.

	Original.	Print
Caption	*a*	1
Transcript from the circuit court of the United States for the southern district of New York	1	1
Petition for writ of *habeas corpus*	1	1
Writ of *habeas corpus*	4	2
Marshal's return	4	3
Order dismissing writ and remanding petitioner	5	3
Notice of order	6	4
Writ of certiorari	8	5
Commissioner's return to certiorari	8	5
Affidavit of J. Thomas Scharf	9	5
Offers of evidence, &c	10	6
Testimony of Li Sing	13	8
Sam Palmer	16	11
Philip A. Gifford	18	12
Richard J. Crowley	23	15
John D. Wood	28	19
J. Thomas Scharf	33	23
Gus Shafer	35	25
Frederick H. Anderson	37	27

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., MARCH 23, 1900.

	Original	Print
Testimony of Frank Spaeth	39	28
George W. Schenck	42	31
Li Sing (recalled)	45	33
Joseph C. Thoms	48	36
Offer of exhibit	50	37
Decision of commissioner	51	38
Exhibit 8—Affidavit of Li Sing	52	38
Sam Palmer	54	39
Li Cheong	56	40
Charley Li	57	41
Lee Gong	58	41
Li Sen	59	42
Application for and allowance of appeal	60	43
Recognizance on appeal	61	43
Bond for damages and costs on appeal	63	45
Assignment of errors	66	46
Stipulation as to transcript on appeal	67	47
Citation	68	47
Clerk's certificate	69	47
Stipulation to add exhibits to record	70	48
Exhibit A—Order of arrest of Li Sing	71	48
Exhibit B—Order for removal of Li Sing	72	49
Opinion	73	49
Notice of order	79	53
Order of affirmance	80	53
Clerk's certificate	81	54
Writ of certiorari	82	54
Stipulation as to return to certiorari	85	55
Return to writ of certiorari	87	55

United States Circuit Court of Appeals for the Second Circuit.

n the Matter of the Petition of LI SING for Writs of *Habeas Corpus* and Certiorari.

Transcript of Record.

ppeal from the circuit court of the United States for the southern district of New York.

[Stamped:] United States circuit court of appeals, second circuit. iled Dec. 13, 1897. William Parkin, clerk.

United States Circuit Court for the Southern District of New York.

n the Matter of the Petition of LY SING for a Writ of *Habeas Corpus.*

o the United States circuit court for the southern district of New York:

The petition of Li Sing respectfully shows:

That he is restrained of his liberty and is now in the custody of e marshal of the United States for the southern district of New ork.

That the cause or pretense of such detention, according to the nowledge and belief of your petitioner, is as follows:

Your petitioner is a Chinese merchant, a resident of the State of ew Jersey, domiciled in the city of Newark; and for many years st has been a resident of said city of Newark.

That in the year 1893, at or about the 22d day of June, your petiioner, being then a member of the firm of Sam Palume Co., who were then merchants engaged in buying and selling merchandise at 64 Springfield avenue, in said city of Newark, and having been a merchant and member of said firm for ore than a year previous thereto, left this country for the purse of temporarily revisiting his friends in China and bringing ck with him his son Ly Foon, and intending to return to this untry.

That before departing from this country your petitioner procured e usual certificate in accordance with the regulation of the Treasy Department. That upon leaving China to return to this coun- your petitioner procured the said certificate to be duly counterned by the representative of the United States Government at ong Kong. That your petitioner applied for admission into this untry to the United States collector at Malone, N. Y. That the d United States collector after examining and cancelling the cericates and papers of identification presented, duly decided that ur petitioner and his said son, Ly Foon, were duly entitled to ter and remain within the United States, and that your petitioner

and his said son, Ly Foon, thereupon came to the city of Newark, the said domicile of the said Ly Sing as aforesaid, where your petitioner has continued to be engaged in his business as a merchant as aforesaid.

That thereafter upon the complaint of J. T. Scharf, a United States inspector, your said petitioner was arrested charged with being unlawfully within the United States. That thereafter proceedings were had before the Hon. John A. Shields, U. S. commissioner, and that your petitioner has been committed on said charge.

Your petitioner is advised by Wm. C. Beecher, his counsel, who resides in the city of Brooklyn, and who is a counsellor of this court, that such restraint and detention is illegal and unauthorized, and that the said commissioner has erred in his proceedings and determination.

3 Wherefore, your petitioner prays for writs of *habeas corpus* and certiorari for the purpose of reviewing the proceedings and determination of said commissioner and of delivering and discharging your petitioner from custody.

Dated New York, —— —, 1897.

W. C. BEECHER.

CITY AND COUNTY OF NEW YORK, *ss:*

Li Sing, being duly sworn, says: That he is the defendant and petitioner herein; that he has had the foregoing petition read to him and knows the contents thereof, and that the same is true of his own knowledge, except as to those matters as are therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

his
LI SING.
mark.

Sworn to before me this 24th day of June, 1897.

JOHN A. SHIELDS,
U. S. Commissioner.

(Endorsed:) United States circuit court. In the matter of the petition of Li Sing for a writ of *habeas corpus*. Writ of certiorari and petition. Wm. C. Beecher, attorney for petitioner; post-office and office address, 237 Broadway, New York city. Let petitioner be bailed in the sum of $300 for appearance on entering of final order herein, and Commissioner Shields is authorized to take such recognizance. June 24, 1897. E. H. Lacombe, U. S. circuit judge. U. S. circuit court. Filed Jun- 24, 1897. John A. Shields, clerk.

4 The President of the United States to the marshal of the United States for the southern district of New York, and to his deputies or either of them:

We command you that you have the body of Ly Sing by you detained, as it is said, together with the time and cause of such de-

tention, by whatsoever name the said Ly Sing is called or charged, before one of the justices of the United States circuit court, at the court-room in the post-office building in the city of New York, on the 26th day of June, 1897, at 1 o'clock in the afternoon, to do and receive what shall then and there be considered concerning the said Ly Sing, and have you then and there this writ.

Witness, Hon. Melville W. Fuller, Chief Justice of the United States, at the city of New York, this 24th day of June, 1897.

[SEAL.] JOHN A. SHIELDS, *Clerk.*

The above writ allowed.

E. H. LACOMBE,
U. S. Circuit Judge.

(Endorsed:) U. S. circuit court. United States *vs.* Ly Sing. Writ of *habeas corpus.* Wm. C. Beecher, attorney for petitioner; post-office and office address, 237 Broadway, New York city. To the marshal of the United States for the southern district of New York. Rec'd June 25, 1897, 2.55 p. m.

I do hereby certify that upon the coming of the within writ to me, to wit, at 2 o'clock and fifty-five minutes p. m., on the 25th day of June, 1897, there was no person of the name of Ly Sing in my custody nor has any such person since been in my custody; and I do hereby further certify that on the 24th day of June, 1897, the
5 within-named Ly Sing was in my custody upon the warrant of deportation herewith returned, and that on that day he was discharged upon bail as appears by the endorsement thereon. John H. McCarty, U. S. marshal. N. Y., June 24, 1897. Writ dismissed and relator remanded for deportation. See opinion in Ly Foon case Aug. 11, 1897. E. H. Lacombe, U. S. C. J. U. S. circuit court. Filed Aug. 12, 1897. John A. Shields, clerk.

At a stated term of the United States circuit court for the southern district of New York, held in the United States court and post-office building, in the city of New York, on the 18th day of August, 1897.

Present: The Hon. E. Henry Lacombe, circuit judge.

In the Matter of the Petition of LI SING for a Writ of *Habeas Corpus* and Certiorari.

A writ of *habeas corpus* and a writ of certiorari herein having been allowed, and returns thereto having been duly filed by the United States marshal for the southern district of New York, and by John A. Shields, Esq., United States commissioner, respectively;

Now, after hearing Wm. C. Beecher, Esq., in favor of the writs, and Max J. Kohler, Esq., assistant United States attorney opposed, due deliberation being had, it is, on a motion of Wallace Mac-
6 farlane, Esq., United States attorney for the southern district of New York,

Ordered, that the writ of *habeas corpus* be and it is hereby dismissed, and it is further—

Ordered, that relator, Li Sing, be remanded to the custody of the United States marshal for the southern district of New York, for deportation under the order of deportation herein signed by Commissioner Shields.

E. H. LACOMBE,
U. S. Circuit Judge.

United States Circuit Court, Southern District of New York.

In the Matter of the Petition of LI SING for a Writ of *Habeas Corpus* and Certiorari.

Please take notice that an order of which the accompanying is a copy will be presented to the Hon. E. Henry Lacombe, U. S. circuit judge, for settlement on August 18, 1897, at 10.30 a. m., at the United States court-rooms in the post-office building in New York city, or as soon thereafter as counsel can be heard, and for such other relief as to the court may seem just and proper. You will also please take notice that the recognizance of relator is then and there returnable, and you are required to surrender him then
7 and there into the custody of the United States marshal, and, in default thereof, the recognizance will be forfeited.

Very respectfully,

WALLACE MACFARLANE,
U. S. Attorney, P. O. Building, N. Y. City.

To Wm. C. Beecher, Esq., attorney for relator, 237 Broadway; James Naughton, Esq., 611 Lexington Ave., surety for relator.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

John V. B. Merritt, being duly sworn, says: That he is employed in the office of the U. S. attorney for the southern district of New York; that on the 12th or 13th day of August, 1897, he served a copy of the within order and notice upon William C. Beecher, Esq., by delivery to and leaving with the person in charge of said office at No. 237 Broadway, New York city, a true copy thereof, said William C. Beecher being then absent therefrom.

JOHN V. B. MERRITT.

Sworn to before me this 17th day of August, 1897.

GILBERT E. ROGERS,
Notary Public, Kings & N. Y. Counties.

(Endorsed:) U. S. circuit court, southern district of New York. In the matter of the petition of Li Sing for writ of *habeas corpus*, &c. Order and notice. Wallace Macfarlane, United States attorney, attorney for defendant. U. S. circuit court. Filed Aug. 18, 1897. John A. Shields, clerk.

8 The President of the United States to the Hon. John A. Shields, United States commissioner for the southern district of New York:

We command you that you certify fully and at large to our circuit court for the southern district of New York, to be held at the court-house in the city of New York, on the 26th day of June, 1897, all of the proceedings before you had on the charge against Li Sing of being unlawfully within these United States, together with all the evidence taken before you. And have you then and there this writ.

Witness Hon. Melville W. Fuller, Chief Justice of the United States, at the city of New York, this 24th day of June, 1897.

[SEAL.] JOHN A. SHIELDS, *Clerk.*

The above writ allowed.

E. H. LACOMBE,
U. S. Circuit Judge.

(Endorsed:) U. S. circuit court. United States *vs.* Li Sing. Writ of certiorari. Wm. C. Beecher, attorney for petitioner; post-office and office address, 237 Broadway, New York city.

THE UNITED STATES
vs.
LI SING.

UNITED STATES OF AMERICA,
Southern District of New York, } *ss:*

I, John A. Shields, United States commissioner for the southern district of New York, in obedience to the foregoing writ of
9 certiorari, do hereby certify that the papers hereunto annexed and returned herewith contain the record of the proceedings had before me in the above-entitled matter.

New York, June 26, 1897.

JOHN A. SHIELDS,
U. S. Commissioner for the Southern District of New York.

UNITED STATES
vs.
LI SING. } Before Commissioner John A. Shields.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

J. Thomas Scharf, being duly sworn, deposes and says: That he is Chinese inspector for the port of New York; that he is informed and believes that Li Sing is a Chinese person now unlawfully within the United States and the southern district of New York, and that on or about the 27th of August, 1896, he entered the United States unlawfully, being a Chinese person not authorized by law to enter the United States; that said Li Sing, deponent is further informed, is a Chinese laborer, and has been such for several years last past, and presented no papers or certificates lawfully entitling

him as such laborer to enter the United States. That the sources of deponent's information and the grounds of his belief are investigations made by deponent in the course of his official duties, statements under oath made by Philip A. Gifford and others, and documentary evidence in deponent's possession.

J. THOMAS SCHARF.

Sworn to before me this 6th day of January, 1897.

JOHN A. SHIELDS,
U. S. Commissioner.

10 UNITED STATES } Before John A. Shields, U. S. Commissioner.
vs.
LI SING.

NEW YORK, *January* 20, 1897.

Appearances.

Max J. Kohler, assistant United States attorney, for the Government.
William C. Beecher, for defendant.

Counsel for defendant offers in evidence certificate as authenticated by the United States consul at Hong Kong, and which was received at the port of Malone, August 27, 1897, by the deputy collector.

Mr. KOHLER: I do not object to the paper as evidence to establish the fact that the defendant was admitted upon presentation of that paper. I do object to it, however, on the ground that it is not the certificate required by law to be produced by a Chinese merchant returning to the United States. Section 6 of the act of 1884 has been held by the supreme court not to be applicable to Chinese merchants returning to the United States, the evidence which they are required to produce being governed entirely by section 2 of the act of 1893. For that limited purpose, if the commissioner admits it, I have no objection.

Marked Exhibit A for identification.

Adjourned to Monday, January 25, 1897, at 2 p. m.
Adjourned to Monday, February 1, 1897, at 2 p. m.

11 NEW YORK, *February* 3, 1897.

Present: Same counsel as before.

Mr. BEECHER: I desire to enter a preliminary objection to the jurisdiction of the commissioner and of this court in these proceedings. Under the act of 1894 it rests with the collector's department to determine the legality of the entrance of a Chinaman into the United States. Perhaps at this stage it does not appear on the record, but it certainly will appear very shortly on the record, that the collector at Malone has officially passed upon the question and admitted the man, and I shall contend, and so far as I may raise it

now by the record I do contend, that this court and your honor have no jurisdiction to pass on the question.

Objection overruled. Exception.

Mr. BEECHER: I also move to dismiss the proceedings upon the ground that there is nothing before your honor sufficient to warrant the holding of the accused or show that he is unlawfully within the United States.

Motion denied. Exception.

Mr. BEECHER: I also claim that where the collector of the port has officially passed upon the right of entry, the burden of proof rests with the Government to show that the accused was improperly admitted. We claim that the burden is with the Government to show upon this examination some proof to warrant the commissioner in holding the accused. This is an examination upon a charge, and under all laws that I am familiar with the party accused has a right to ascertain what the facts are under which he is arrested and he is not obliged to go into any defense until a *prima facie* case is made out. Therefore I ask permission to examine the
12 party who makes the affidavit upon which this arrest is made—as part of the examination.

Overruled. Exception.

Mr. BEECHER: I offer in evidence certificate of the defendant Li Sing as authenticated by the Chinese consul in New York and by the United States consul at the port of Hong Kong, canceled August 7, 1896, by Deputy Collector Porter at Malone.

Mr. KOHLER: Objected to on the ground that this certificate purporting to be issued under section 6 of the act of 1882 as amended by the act of 1884 is not the proper evidence to be produced by a person claiming to be a Chinese merchant returning to the United States, that section having been held not to be applicable in such a case. I do not object to having it admitted as evidence of what was presented to the collector to show that there were such papers before the collector. I do object to it for any other purpose.

Mr. BEECHER: Do you concede that this is the certificate on which Deputy Collector Porter acted as deputy collector and admitted the defendant?

Mr. KOHLER: I will admit that. I admit that this is the certificate on which the deputy collector at Malone, on August 27, 1896, admitted the defendant Li Sing. I object to it on the further ground that it is incumbent upon the defendant to establish the fact that he is a merchant returning to the United States by the evidence required by section 2 of the act of 1893, which act is later than the earlier act and requires a different mode of proof.

Decision reserved.

Adjourned to Friday, February 11, 1897, at 11 a. m.

13 NEW YORK, *March* 8, 1897.

Present: Same counsel as before.

LI SING, the defendant, sworn and examined, through J. C. Thoms, interpreter, as follows:

By Mr. BEECHER:

Q. You are the prisoner?
A. Yes, sir.
Q. Were you formerly a resident of Newark, New Jersey, in the United States?
A. Yes, sir.
Q. What was your business there?

Objected to on the ground that by section 2 of the act of 1893 the facts in question as to the status of the defendant and business and residence in the United States and so on must be established by the testimony of two credible witnesses other than Chinese.

Decision reserved.

Counsel for Government excepts to this whole line of examination.

A. I was in the Chinese merchandise, keeping Chinese merchandise.
Q. What was the name of your firm?
A. Sam Palmer & Co.
Q. When did you leave or did you leave the United States in the summer of 1893 to go to China?
A. Yes, sir.
Q. Before leaving the United States did you procure this certificate (handing certificate to witness)?
A. Yes, sir.
Q. How soon after procuring that certificate did you leave the United States for China?
A. A week or two.

Counsel for defendant offers in evidence the certificate already marked for identification.

Objected to except for the purpose of showing what papers were before the collector; also that even on the assumption
14 that the present case is governed by section 6 of the act of 1884, the present certificate does not comply with that provision, inasmuch as it is a certificate issued by the Chinese consul at New York and vised at Hong Kong by the United States consul, and therefore does not purport to be a certificate issued by the Chinese government; on the further ground, that there is no evidence of any authority on the part of the Chinese consul to issue such certificates.

Paper admitted and marked Exhibit 1 for the purpose of showing what papers were before the collector upon which the defendant was admitted, and not as evidence of any of the facts stated in it.

Counsel for defendant excepts to the limitation and qualification of the commissioner's ruling.

Q. So that you left this country in the early summer of 1893 to go to China?

A. Yes, sir.

Q. For how long a time had you been a merchant in the city of Newark before you went to China in the summer of 1893?

This line of examination taken subject to objection of counsel for Government.

A. I was in that business for six years, but I only took an active part in the business for about a year and a half.

Q. What is the name of your firm?

A. Sam Palmer.

Q. And are any of your partners here in court?

A. Yes, sir; that is the man (indicating).

Counsel for Government objects and moves to strike out the statement that he is a member of that firm and a merchant on the further ground that it is required by the act of 1893, that the fact that the person is a merchant and does business in his own name must be established by the firm books themselves and cannot be established by oral testimony.

Motion granted. Exception.

Cross-examination by Mr. KOHLER:

Q. On what steamer did you go to China?

A. Empress of India.

Q. From what place did that steamer leave?

A. Vancouver.

Q. What was the exact date on which the steamer left; do you remember?

A. I don't know as to the exact date that the Empress of India left Vancouver.

Q. What was the month?

A. In June.

Q. What was your means of earning your livelihood during the last year before you left the United States?

A. When I sold my laundry I took active part in the business.

Q. When did you sell your laundry?

A. In 1891; about 1891.

Q. Do you mean to say that you have never worked in a laundry since then—hadn't been working in a laundry after 1891, and before you left the United States in 1893?

A. No, sir.

Q. Never worked in a laundry all that time?

A. No, sir.

Q. Do you know Mr. Philip A. Gifford?

A. Yes, sir; I knew him when I was keeping a laundry.

Q. Was he one of your customers?

A. Yes, when I kept a laundry he used to be one of my customers.

Q. Where did you live just before you left for China in 1893?
A. I had a room.
Q. Where?
A. On Ferry street.
Q. In what city?
A. Newark.
Q. Haven't you done any washing for Mr. Gifford since you are back from China?

Objected to as immaterial and irrelevant. Objection overruled. Exception.

16 A. No, sir.
Q. Are you married?
A. Yes, sir.
Q. When did you leave China to come to the United States the last time?
A. The fifth moon in the Chinese calendar. I presume that must have been June.
Q. Of what year?
A. Last year.
Q. How much did you earn from Sam Palmer's business during the last year in which you lived in the United States?
A. A little over $200, exclusive of my regular salary.
Q. What was your regular salary?
A. $30 a month.
Q. Didn't you get any money from any one else during that last year?
A. No, sir.
Q. Didn't Mr. Gifford pay you some money for washing his clothes during that year?
A. No, sir; he did not give me any.

Counsel for Government asks the commissioner to instruct the witness through the interpreter that it is a crime to swear falsely, &c.
The interpreter questions witness as to his understanding.

By the COMMISSIONER:

Q. Tell him he must tell the truth or otherwise he can be punished for perjury by imprisonment.
A. Yes, sir. He understands that.

By Mr. KOHLER:

Q. You repeat then that you did not receive any money from Mr. Gifford for washing his clothes the last year before you left for China?
A. No, sir.

SAM PALMER sworn and examined as a witness for defendant.

By Mr. BEECHER:

Q. Where do you live?

A. 64 Springfield avenue, Newark, New Jersey.

17 Q. What is your business?

A. My business is in the grocery and laundry supplies.

Q. Where is your place of business?

A. Newark, 64 Springfield avenue.

Q. Newark, New Jersey?

A. Newark, New Jersey.

Q. Do you know Li Sing?

A. Yes, sir.

Q. Do you know what his business was during the spring of 1892 and 1893?

A. Yes, sir.

Q. What was his business?

Objected to on the ground that the books are the best evidence, and on the further ground that the testimony of a Chinese witness is not competent for this purpose. Objection sustained. Exception.

Q. Was Li Sing a member of the firm of Sam Palmer and one of your partners during the years 1892 and 1893?

Same objection, ruling, and exception.

Adjourned to Monday, March 15, 1897, at 10.30 a. m.

NEW YORK, *June* 8, 1897.

Appearances.

Max J. Kohler, assistant United States attorney, for the Government.

William C. Beecher, for the defendant.

Testimony offered on behalf of the Government, without prejudice to the objection that the defendant has failed to establish as part of his own case his right to be and remain here.

It is stipulated by the respective counsel for the purposes of enabling the questions of law and fact in this case to be passed

18 upon, that the commissioner will permit the evidence offered by the defendant to go in subject to the Government's objections, and the objections are then to be passed upon at the end of the whole case. In so far as this is in conflict with rulings heretofore made herein the same are hereby rescinded.

Counsel for defendant states his intention of putting in further evidence on the next adjourned day, which will be regarded as having been put in before defendant's case is closed.

PHILIP A. GIFFORD sworn and examined as a witness for the Government.

By Mr. KOHLER:

Q. Where do you reside?
A. 40 Park place, Newark, N. J.
Q. What is your position?
A. Now, I am in the advertising business. I ceased to be deputy county clerk since I was here last January.
Q. Did you testify in the case of the United States against Li Fung?
A. Yes, sir.
Q. (Exhibit 1 shown witness.) Was this affidavit taken before you?
A. Yes, sir.
Q. Do you know the man whose picture is there shown?
A. Yes, sir.
Q. How long have you known him?
A. I think between six and eight years.
Q. And that is the man who appeared before you, is it?
A. Yes, sir.
Q. In what way have you known him?
A. I have seen him on a great many occasions in a laundry two doors below my house.
Q. What is the name on that laundry?
A. John Sing.
Q. Under what name have you known this man?
A. John Sing.
Q. Have you seen any of his laundry slips?
A. I don't know.
Q. Where is the place where you have seen this man?
A. I think it is 588 Broad street.
19 Q. Are you sure it is not 590 Broad street?
A. It is about there. I am not sure of the number. My house is 584 Broad street, and it is right near there.
Q. Has he ever done any washing for you?
A. I have had washing done at the place.
Q. Have you delivered the wash to him?
A. Yes.
Q. How many times have you seen him?
A. I don't know. During eight years it is very hard for me to say; a great many times. I think certainly twenty-five times.
Q. Have you paid him for the washing which he did for you?
A. Yes.
Q. Do you remember a period of a number of months when he was not to be seen at that place?
A. Yes.
Q. Was that after this affidavit was taken before you, which is dated the 7th of July, 1893?
A. Yes, sir.
Q. Have you seen him since that date?

A. Yes, sir.
Q. How often have you seen him since last August?
A. Maybe six or eight times.
Q. Have you taken your wash to his place since then?
A. Only once.
Q. Did you see him there at that time?
A. I am not clear about that, whether I saw him the last time that I took it there or not.
Q. Have you seen him about that place on these five or six occasions since his return?
A. I have seen him very seldom since his return.
Q. While he was away did you have your wash laundried at that place?
A. No, sir.
Q. What induced you bring your wash back to that place?

Objected to as immaterial, incompetent and irrelevant. Objection overruled. Exception by defendant.

A. I was not satisfied with my laundress, and I took it there only just on that one occasion.
Q. Did you know when you went there that this man was back from China?
A. Oh, yes; I knew it at that time. I had seen him.
Q. How long before that had you known it?
A. I don't know. A few weeks perhaps.
Q. Did you have any conversation with him?
A. Yes, sir; he called once at my office and once at my house.
Q. What was the conversation about?
—. He came alone once, and at another time with another Chinaman. The burden of his conversation was that I should be impressed with the idea that he was a merchant.

Counsel for defendant objects to the last sentence of the answer as a characterization which is not called for.
The last sentence of the answer is stricken out.

Q. Tell us what he said?
A. I cannot do it.
Q. State it in substance?
A. The other Chinaman that was with him did most of the talking. It was, didn't I know that he was a merchant?
Q. He asked you that?
A. That was the import of the question.
Q. Did the man that accompanied him ask him that in his presence?
A. I really cannot remember that.
Q. Did John Sing make any reference to the fact in his conversation with you that he had been in China?
A. No, sir.
Q. Did you make any remark about seeing him back, or ask him where he had been?

A. Oh, I suppose I did say that I was glad to see him back, as I had asked about him while he was away.

Q. Was this man John Sing, with the other Chinaman that you have referred to at your place since you testified here the last time?

A. Yes, sir.

21 Cross-examination by Mr. BEECHER:

Q. Do you remember what month it was that this interview took place that you speak of at your house?

A. It was during last winter.

Q. That was the last time that you saw him?

A. Once since that he was at my office, I think about two months ago.

Q. You do not recollect having seen him at this laundry, 588 or 590 Broad street, since his return from China?

A. I am not clear about that; no, sir.

Q. Can you at this lapse of time recall and state when it was that you saw him there last before he went to China?

A. I think he was away about two years, and before he went away he said something about going. Then I missed him, and I spoke to his friends, Chinamen that I had seen there, and asked: "When did you hear from John," or "When is John coming back"—something of that kind—and they said: "Next spring," or "next winter"—something of that sort.

Q. Did you know his brother, Li Sing?

A. Not to know him as his brother.

Q. Did you know that he had a brother whose name sounds very nearly the same?

A. No, sir; I did not know that.

Q. Did you know a Chinaman named Lee Gang?

A. No, sir.

Q. You did not know that he had bought out this laundry along in the early 90's?

A. No, sir. I have seen a number of Chinamen in there, but I wouldn't remember them to know them.

Q. You say that you first became acquainted with him some six or eight years ago?

A. I think so.

Q. And, of course, you have no recollection in regard to the different times when you were there prior to 1893?

A. Sometimes I would go in, but generally, I think the girl would take the things in.

Q. So that you would not know who received the wash?

A. No, sir; only I know that on a number of occasions he received it.

22 Q. I only want to know whether you can tell after this lapse of time how often you yourself went into this laundry prior to 1893, and at what times you went in?

A. I think it was about Christmas week of 1892 that we sold our house and moved down on Park place about a quarter of a mile, and then I changed my laundry.

Q. Then since Christmas, 1892, you probably have not been there yourself at all?

A. No, sir.

Q. Prior to that, between 1888 and 1892, could you tell at what dates you went into this laundry?

A. No, sir. Often I went in and chatted with him, talked and laughed, when I had no particular business.

Q. But you have no recollection of the particular times when that occurred?

A. No, sir.

Q. You speak of his having called with some other Chinamen to see you at your house when there was some conversation in respect to his being a merchant?

A. Yes.

Q. And you say that you do not recall the form of the questions put to you. Was it not to see whether you knew the fact of his being a merchant and a partner in the firm of Sam Palmer & Company?

A. Yes, sir; but I cannot tell you what particular time that was mentioned. Two or three times my attention was drawn to the fact that he was a member of the firm of Sam Palmer & Company, but I also said that I did not know it.

Q. Were not the questions as to whether you knew anything about his being a member of that firm?

A. Yes, I think so.

By Mr. KOHLER:

Q. Who was the Chinaman that was with John Sing?

A. I don't know.

Q. Do you know Sam Palmer by sight?

A. Oh, yes.

Q. Sam Palmer is a Chinaman, too, isn't he?

A. Yes, sir.

23 RICHARD J. CROWLEY sworn and examined as a witness for the Government.

By Mr. KOHLER:

Q. Where do you live?

A. Newark, N. J.

Q. What is your business?

A. Plumbing, and paints and oils, &c.

Q. Do you know the defendant Li Sing?

A. Yes, sir.

Q. Is this the man (showing photograph on Exhibit 1 to witness)?

A. Yes, sir; I know him as John Sing.

Q. Where have you seen him?

A. In Newark, at the laundry, 590 Broad street.

Q. Have you seen any other Chinaman there?

A. Yes, sir.

Q. How often have you seen this man there?

A. Before he went to China I saw him there every day.
Q. For how long a period?
A. Six or seven years.
Q. Have you seen him since he returned from China?
A. Yes, sir.
Q. How often?
A. About a dozen times.
Q. What brought you to the laundry?
A. Business.
Q. Did he ever do any washing for you?
A. No, sir.
Q. Have you seen him receive clothing to be washed?
A. Yes, sir.
Q. How often?
A. When I have gone in there.
Q. Since his return from China have you seen persons bring any wash there?
A. Yes, sir; I have.
Q. Have you seen him receive any wash?
A. I could not say that I saw him receive it.
Q. Have you seen him handle any money there?
A. No, sir. I have seen him washing and ironing there.
Q. Tell us what particularly brought you there since his return from China?
24 A. My business necessitated me to go there as a plumber to see about some pipe.
Q. Who paid you?
A. The bill was made out to John Sing, and I took it down there, and he paid it himself.
Q. How long ago was that?
A. Some time since he came home. I cannot really remember.
Q. In the fall, summer or winter?
A. It was in the fall of the year.
Q. Have you seen any of these advertisements there at the laundry (showing a green-colored circular to the witness)?
A. No, sir; I never saw those.
Q. Have you seen any of this color (showing a pink-colored one to the witness)?
A. I have seen these, but the inspector had them. I never saw these in the place.
Q. Have you seen any placards in the place tacked upon the wall?
A. Yes; some that I could not understand.
Q. Did you see any sign over the door?
A. Yes.
Q. Since this man's return from China?
A. Yes, sir. It was there before he went, and it is there yet. It is, "John Sing laundry."
Q. Has the defendant been to see you since he was arrested?
A. I don't think he was arrested at the time. He came to see me since he has been home.

Q. How long ago was it?
A. Shortly after the inspector had seen me in Newark.
Q. What did he say to you?
A. He had another young fellow with him—an interpreter, I think.
Q. A Chinaman?
A. Yes, sir.
Q. What did he say to you?
A. He wanted to know if I knew that he was in the merchant business in Newark, connected with a firm on Springfield avenue.
Q. What did you say?
A. I said no. He wanted me to swear to it, and go as a witness for him that I knew him to be a merchant in the city of Newark.
25 Q. Who wanted you?
A. John Sing himself.
Q. What did you say?
A. I said no, I could not do such a thing. Then there was some conversation between him and the interpreter, and the interpreter asked me if I would not sign a paper as a witness for John Sing, to prove that he was a merchant in Newark.
Q. Was anything offered to you?
A. Yes. He said I would be paid well for my services.
Q. Who was the interpreter?
A. I don't know him.
Q. Had you ever seen him before?
A. No, sir. I have seen him once down in the laundry. I was passing the laundry and he called me, and I went in, and I guess there was 30 or 40 Chinamen in there at the time.
Q. Who do you mean by the marshal?
—. Mr. Scharf.
Q. Was that after the first occasion that you saw Mr. Scharf, or before?
A. Afterwards.
Q. Can you give us any idea about when it was?
A. It was three or four months ago, I guess.

Cross-examination by Mr. BEECHER:

Q. Are you not able to recall more accurately the time when so remarkable an occurrence took place?
A. No, sir; but I think it was in January.
Q. January, 1897?
A. Yes, sir.
Q. It struck you as rather an unusual thing, didn't it?
A. Yes, sir; it did.
Q. Didn't it make an impression on your mind?
A. Yes, sir.
Q. When did you first speak of it to any Government official?
A. Not until I saw Mr. Scharf.
Q. And that was very shortly afterwards, wasn't it?

A. Yes, sir.
Q. Within a few days?
A. It was before this occurrence that I spoke to Mr. Scharf. He didn't know anything about it at the time.
Q. I ask you: When did you first speak to any Government official in regard to this occurrence?
A. Not until I came here.
26 Q. When was it that you saw Mr. Scharf first in regard to Li Sing?
A. I really do not know.
Q. Was it in the fall, or winter, or spring?
A. It was around last January.
Q. How long before the occurrence that you have spoken of?
A. It was after.
Q. You saw Scharf first after that?
A. I saw Mr. Scharf before this occurrence happened in the laundry.
Q. How many days before?
A. Two or three days.
Q. Can't you fix the month when you saw Mr. Scharf first?
A. It was in January.
Q. You are certain it was in January?
A. Well, I cannot swear to it.
Q. When did you see Mr. Scharf first?
A. I am not positive, but I think it was in January.
Q. You had an interview with Mr. Scharf, and then a few days after that you saw these Chinamen?
A. Yes, sir. They came to my place of business first.
Q. And then did you see Mr. Scharf again after that?
A. No.
Q. When did you see Mr. Scharf again?
A. I have only seen him once until I met him here.
Q. Did you tell Mr. Scharf anything in regard to this case in January?
A. Only that I knew the party and knew him to carry on the laundry.
Q. And then you say you saw Li Sing again at this laundry after the time he called at your office?
A. Yes, sir.
Q. How long was that after this time that he came to your office?
A. Well, that same day.
Q. You went down to the laundry the same day?
A. I passed there and Sing called me in.
Q. Didn't he call at your house in the evening?
A. No, sir.
Q. What time was this?
A. It was about 10 o'clock in the forenoon.
27 Q. And about what time in the day were you down at the laundry?

A. I had occasion to pass there about 2 o'clock, and they called me in.

Q. You cannot give us the day of the month?

A. No, sir.

Q. Did you not make a note or memorandum of such a singular offer as this?

A. No, sir.

Q. It was an unusual occurrence to you?

A. Well, it appeared to be.

Q. Do you mean to say that there is any doubt about its being an unusual occurrence to you?

A. No, I do not.

Q. Then didn't it make a sufficient impression on your mind for you to be able to fix the time when it occurred?

A. I cannot say anything further than I have said about it.

Q. You have no idea as to what part of the month it was, and you are not certain as to the month?

A. I am quite positive it was in January.

Q. The early or latter part of January?

A. That I cannot say.

Q. You cannot fix it any more accurately than you have?

A. I fix it in January, I think.

Q. What business do you say you are in?

A. Plumbing.

Q. With whom?

A. With my father.

Q. What is the name of your firm?

A. R. J. O. Crowley.

Q. And where?

A. 552 Broad street, Newark, N. J.

Redirect examination by Mr. KOHLER:

Q. At the time you say Mr. Scharf first came to see you, a few days before this conversation with Li Sing, did he show you this paper and this picture (showing Exhibit 1 to the witness)?

A. Yes, sir; he did.

Q. And he asked you if you knew that man, did he?

A. Yes, sir; that was the first thing he said to me.

28 JOHN D. WOOD sworn and examined as a witness for the Government.

By Mr. KOHLER:

Q. Where do you reside?

A. 512 Central avenue, Newark, N. J.

Q. What is your position?

A. I am a police officer, detailed on Broad street.

Q. Does your beat cover 560 Broad street?

A. Yes, sir.

Q. Do you know this man (showing picture on Exhibit 1 to witness)?

A. Yes, sir.

Q. Who is it?

A. It is John Sing. I always knew him as such.

Q. Where have you seen him?

A. In his laundry.

Q. Where is that?

A. I should judge it is about 585 to 590 Broad street, somewhere along there—nearly opposite Central avenue.

Q. How long has your beat covered that place.?

A. I have been detailed there since a year ago last March for day duty.

Q. Did you know this man whom you identify as John Sing before he went to China?

A. I have known him 16 or 17 years—ever since the time I used to have a night post there.

Q. Do you remember the time he was away in China?

A. Yes, sir.

Q. And when he came back?

A. Yes, sir; about when he came back.

Q. How often have you seen him since he came back from China?

A. I could not tell you that. I have seen him some days probably two or three times, and other days I may not have seen him at all.

Q. Just give us an estimate of about how often?

A. I could not give any estimate on that, only when I passed the laundry I would see him there ironing.

Q. Have you seen him a dozen times?

A. Yes, more than that.

Q. Have you ever been in his place?

29 A. No, I have never been in his place much since I saw the marshal, Mr. Scharf. I went there quite frequently after that to see if he was there, but he was not there after that.

Q. Before that occasion had you seen him in the place?

A. Yes, sir; I had seen him by the window ironing as I passed by.

Q. How often since last August?

A. I have not seen him at all since that gentleman (Mr. Scharf) came to see me.

Q. Between those times?

A. I could not say.

Q. How many times have you seen him ironing?

A. I could say two dozen, safely enough.

Q. That is, since he came back from China?

A. Yes, sir.

Q. When Mr. Scharf, the Chinese inspector, came to see you, did he show you this paper (Exhibit 1 shown witness)?

A. Yes, sir; and asked me if I knew the man.

Q. How long ago was that?

A. In January some time. I could not tell you the date. When

I saw the marshal he asked me if I would mind coming here. I said if I was subpœnaed, I would certainly come over. I never tried to fix my mind particularly on the date.

Q. Have you seen any sign there?

A. There is a sign on the window now, "John Sing."

Q. Have you seen any of these advertisements there (showing green and pink placards to the witness)?

A. The marshal had them.

Q. You have not seen any of them in the laundry?

A. There is painting or something of that kind in Chinese upon the walls, that I have seen there as I have been passing the place.

Cross-examination by Mr. BEECHER:

Q. You say you saw Mr. Scharf some time in January?

A. Yes, sir.

Q. The early part of the month?

A. Yes, sir; or the middle of the month.

30 Q. You have never seen this Chinaman since that time?

A. No, sir. I went there several times especially to see if he was there.

Q. You have never been in the place and seen him there, have you?

A. No, sir; I have never had no particular call to go in the place. I would speak to them in the door as I was passing and say, "How are you, John?" just pass the time of day with them.

Q. The time you speak of having seen him since he came back from China, you saw him through the window?

A. Yes, sir; and he would always recognize me by a bow.

Q. When you spoke to him or to the man that was in there as you passed by, the man would nod back?

A. Yes, sir.

Q. But you have never been inside?

A. No, sir.

Q. Where was it that you saw the man at work?

A. Broad street runs that way (indicating), and his laundry is on the left-hand side as you go down, that is, going south, and he worked right by the window.

Q. Was there a laundry bench or table right in front of the window?

A. One of them is there and the other is alongside of the wall.

Q. The one where you have seen him at work is right by the window?

A. Yes, sir.

Q. When do you recall having seen him last?

A. It was within a day or two of the time that I saw this gentleman (pointing to Inspector Scharf). I didn't know whether he was a United States marshal or a commissioner, or what he was.

Q. When did he come back from China?

A. Well, I could not fix the time. I should say around July or August.

Q. Did you see him there in midsummer?

A. I think it was around August. He was not there the first part of the summer.

Q. You are sure that you did not see him there in June?

A. No, I don't think he was there in June.

31 Q. Do you recall whether you saw him there in July?

A. I wouldn't be positive about June or July, but he was there in August, I know.

Q. That you are sure of?

A. Yes, sir; and in September and October, I think. I wouldn't fix any particular time that I have seen him there. I know he was away a good while.

Q. Six months?

A. Yes; it was a year and six months, I should judge, from the time I first heard that he was away. You see, I was only on beat there a year regularly, and I know I used to see him there previous to that time when I was there before, and he was away in China twice, I heard.

Q. How many men were there working in the laundry there?

A. Three or four, I guess.

Q. Do you know the other men?

A. No; nothing more than I see men in there.

Q. You know the man that is there now?

A. Yes; but I don't know his name.

Q. You have seen him there all the spring and you recognized him as the man that you had seen there by face?

A. I think the same man that is there now was there when John was there the last I saw him.

Q. The man that is there now has been there for a considerable time, and all the time that John was away?

A. I could not refer to all the time.

Q. You were there on night duty?

A. I haven't been there at night in 12 years.

Q. Didn't you state a few moments ago that you knew him when you were there 12 years ago?

A. Yes, sir.

Q. Then your previous knowledge of the man was at least 12 years ago. Is that it?

A. Previous to this affair, yes. Before he went to China I used to see him every day.

Q. You have been by his place there and have seen men there a great many times prior to John's going to China?

A. Yes, sir.

32 Q. Haven't you also seen there the man who is now working there at times when you went by that place prior to Sing's going to China?

A. I don't know just when Sing went to China this last time.

Q. You know when he came back?

A. I know about when he came back.

Q. I ask you whether you have seen the man who is there now during the period when you understood Sing was in China?

A. I don't know.

Q. Have you no recollection of having seen the man who is now apparently in charge during the time when you understood Li Sing was in China?

A. I think, to the best of my knowledge, that the same man was there before John came back from China.

Q. And for several years before?

A. No, I would not say that.

Q. You were by there frequently?

A. Yes, sir.

Q. Both during the time when you thought he was in China and for a long time prior thereto?

A. Yes, sir; but I did not always look in those windows particularly. I pass this place quite frequently, and I don't know who is in the lobby downstairs when I pass it.

Q. You have only looked in there particularly since you have seen Mr. Scharf?

A. Yes, sir.

Q. You have been more particular since that time. Is that it?

A. Yes, I have been more particular since that time to see whether he was there or not.

Q. What precinct are you connected with?

A. The second precinct.

Q. You have been connected with that precinct how long?

A. It is two years now since I have been back there.

Redirect examination by Mr. KOHLER:

Q. Do you remember the day when you saw Inspector Scharf?

A. No, sir.

Q. Do you remember seeing him coming out of Li Sing's place?

A. Yes, sir; I saw him come out of the place.

Q. Did you notice any Chinamen around there at that time?

33 A. Not in particular until after he came out and went to talking to me, and went down the street.

Q. What did you see then?

A. I saw Chinamen there in civilians' dress, and one of them called the rest and pointed to this man as he went down the street, on the other side of Broad street.

Q. Did you see Li Sing there at that time?

A. He was not there—that is, John Sing, you mean?

Q. Yes; John Sing.

A. No, sir; he was not there at that time.

J. THOMAS SCHARF sworn and examined as a witness for the Government:

By Mr. KOHLER:

Q. What is your position?

A. I am Chinese inspector of the port of New York.

Q. Did you ever see this paper, Exhibit 1, before?
A. Yes.
Q. Do you remember about when you first saw it?
A. I obtained it in one of the Chinese cases about September or October last. I arrested a Chinaman that entered on September 9th, I think it was, and these papers all come out afterwards on his trial.
Q. Did you take that paper over to Newark with you on any occasion?
A. Yes, sir.
Q. When?
A. The 15th of January last. The case was coming up on the 20th of the month and you sent me over to get witnesses, and I took this paper along, this being Li Sing's case and we wanted witnesses in his case and I went over there to hunt for them.
Q. Did you go to 590 Broad street?
A. Yes, sir.
Q. Did you see the defendant there?
A. It is a laundry on the level of the street, with a door and one window, and it has a sort of light-box above the door painted in red letters, "Li Sing, laundry." I went in the laundry and I saw two Chinamen at work there. I talked with them about laundry
34 work first, pretending that I was coming there to get laundry work done, and I asked him if he had a list of prices, and he said——

Objected to.

Q. (Paper shown witness.) Did you get this there?
A. I obtained this list of prices in the place. They were tacked up against the wall.

Counsel for the Government offers in evidence the paper referred to.
Objected to on the ground that there is no proof that the papers were obtained from the defendant, nor is it shown that they belonged to the defendant or were obtained from his laundry. Objection overruled. Exception by defendant.
Marked Government Exhibit 2.

Q. Did you see the defendant in there?
A. No, sir.
Q. What was being done in the place?

Objected to as immaterial, irrelevant and incompetent in the absence of the defendant. Objection overruled. Exception by defendant.

A. They were washing and ironing clothes when I was there.
Q. You saw various of the other witnesses on that day, did you not?
A. Yes, sir. I went outside, and the first man I met was a colored man, who lived next door, and then I met this police officer on the corner, and I showed him this paper.

Q. And you saw Mr. Crowley also?
A. Yes, sir; I saw Mr. Crowley down the street.
Q. That is all you know of your own knowledge?
A. That is all.
Q. You have seen the defendant here in the other case?
A. Oh, yes, I know him.

No cross-examination.
(Government rests.)

Adjourned to Tuesday, June 15, 1897, at 10.30 a. m.

35 NEW YORK, *June 15th*, 1897.

Appearances.

Max J. Kohler, ass't U. S. att'y, for the Government.
F. W. Fielding (representing Mr. Beecher) for the defendant.

GUS SHAFER sworn and examined as a witness for the defendant.

By Mr. FIELDING:

Q. Where do you live?
A. 34 South Orange avenue, Newark, N. J.
Q. What is your business?
A. Truck-driver for Lang & Company, flour merchants in Newark.
Q. Do you know the defendant Li Sing?
A. Yes, sir.
Q. How long have you known him?
A. About two years—between 1891 and 1893.
Q. Where did you first get acquainted with him?
A. I bought stuff off of him over the counter.
Q. Where?
A. 55 South Orange avenue; Sam Palmer & Company was the name of the place.
Q. And that was in what year?
A. During 1891 and 1893.
Q. During that time did you have occasion to go to his store frequently?
A. Yes, sir.
Q. And when there did you see the defendant Li Sing?
A. Yes, sir; I have bought tobacco of him.
Q. What did you see him doing?
A. At different times I saw him fixing up boxes and so on—soap, starch and such as that, and selling goods over the counter.
Q. And taking in money?
A. Yes, sir.
Q. When did you miss him from there?
A. About the first part of the spring, 1893.

36 Cross-examination by Mr. KOHLER:

Q. How did you happen to come here today?
A. I was subpœnaed.
Q. Had you spoken to any one about this case?
A. No, sir.
Q. You don't know how you happened to be subpœnaed?
A. No, sir; I don't know the first thing about it.
Q. Do you know Mr. Beecher?
A. No, sir.
Q. Do you know Sam Palmer?
A. Yes, sir; when he gave me the subpœna he said it was about his partner.
Q. Have you the subpœna here?
A. Yes, sir (witness produces paper).
Q. How long have you known Sam Palmer?
A. 11 or 12 years.
Q. Do you see the defendant Li Sing here?
A. Yes, sir; that is him (indicating defendant).
Q. You are sure that you have seen tobacco on sale in Sam Palmer's place, are you?
A. Yes, sir.
Q. How do you happen to remember that it was between 1891 and 1893?
A. Because I was carting goods from the boat to Sam Palmer's place.
Q. But how do you remember that it was those particular years, and not between 1893 and 1894?
A. Because a different firm went out of partnership about that time.
Q. Did you stop buying tobacco then?
A. No, sir. I have bought tobacco off of Sam Palmer whenever I am in the neig-borhood.
Q. How old are you?
A. 46.
Q. Do you know any other Chinamen?
A. If I go by the place and see them, I would say "Hello John."
Q. How often have you seen this man?
A. I couldn't say.
Q. More than once?
A. Yes; many times.
Q. When you were in this place did you buy tobacco from this man every time?
A. No, sir.

Q. Did you ever see this man in any other place?
37 A. I have met him in Market street and in Springfield avenue, and different places.
Q. Where was Sam's place when you were there and saw this defendant?
A. 55 South Orange avenue.
Q. Is that the place where he is now?

A. No, sir.
Q. You did not speak to any one about this case until Sam Palmer gave you a subpœna?
A. Yes, sir.
Q. Did you know what you were to testify to here?
A. I couldn't say.
Q. No one had spoken to you at all about Li Sing before you were subpœnaed?
A. That is all I know.

By Commissioner SHIELDS:

Q. Did you know this Chinaman's name when you saw him in that store?
A. I always called him John.

By Mr. KOHLER:

Q. What time of the day did you go there to get tobacco?
A. It was somewhere from about 5 o'clock in the afternoon until eight in the evening.
Q. Has anything been promised to you for testifying here?
A. No, sir.
Q. And you have not received anything?
A. I received twenty cents car fare.

FREDERICK H. ANDERSON sworn and examined as a witness for defendant:

By Mr. FIELDING:

Q. Where do you live?
A. 37 Springfield avenue, Newark.
Q. What is your business?
A. Furniture-mover.
Q. Do you know Li Sing?
A. I have seen him before.
Q. Is that him (pointing to the defendant)?
A. Yes, sir.
38 Q. Where did you first see him?
A. In Broad street, Newark. I used to take my laundry work there to him.
Q. What did you see him doing there?
A. He was behind the little counter that they have in all laundries, and I gave him my wash and he gave me a check for it.
Q. What year was that?
A. 1889 and 1890.
Q. Have you seen him after that?
A. Yes, sir; at 55 South Orange avenue, Newark.
Q. What business is carried on there?
A. Well, it is like a grocery store; they sell different things, tobacco, and so on—Sam Palmer & Company is the name of the place.

Q. You say you have been in that store and seen this defendant there?
A. Yes, sir.
Q. What was he doing there?
A. He was behind the counter waiting on customers.
Q. How often did you see him there?
A. Whenever I was up that way I used to go in there and get my tobacco.
Q. Were you in there frequently?
A. I can't tell you how often; a dozen times, or twenty times maybe.
Q. At all times when you have been in there has the defendant been attending to the same duties?
A. There has been times when Sam Palmer himself has waited on me.
Q. During what period was it that you saw the defendant at his place in 55 South Orange avenue?
A. It was between 1892 and 1893 some time.
Q. Did you ever have any conversation with Li Sing in reference to the defendant's connection with the concern?
A. No.
Q. Did you ever have any such conversation with Sam Palmer?
A. I have talked with Sam Palmer, and Sam Palmer said he was his partner——

Objected to. Objection sustained and last part of the answer stricken out.

No cross-examination.

39 *Further Testimony on Behalf of the United States.*

FRANK SPAETH sworn and examined as a witness for the Government.

By Mr. KOHLER:

Q. Where do you live?
A. 132 Jackson street, Newark.
Q. What is your business?
A. I drive a bakery wagon.
Q. Do you know the defendant Li Sing?
A. I don't know him under that name; I knew him as John Sing.
Q. Where have you seen him?
A. In a laundry on Broad street.
Q. What have you seen him doing there?
A. Washing and ironing and taking in laundry work there.
Q. How did you happen to go in there?
A. I used to live right in Front street and that was the nearest laundry for me.
Q. How recently have you seen the defendant there?
A. I couldn't say. It was after the inspector here was over there.

Q. Have you seen him there since January?
A. Yes, sir.
Q. How often have you seen him in that laundry since the first of September last?
A. Only once. My sister has taken the laundry work there since then.
Q. Did you have any dealings with Li Sing himself?
A. Yes, sir; I handed him the check and he gave me my wash and I paid him.
Q. What is the name of that place?
A. John Sing, laundry.
Q. Is the sign in English?
A. Yes, sir.
Q. How does it read?
A. "John Sing, laundry."
40 Q. You are sure it is Sing, and not Zing?
A. Yes, sir; Sing.
Q. Was there any period during which you were in this laundry prior to last September and did not see this man?
A. Yes, sir.
Q. Were you told that he had gone to China?
A. Yes, sir.
Q. When was that?
—. I don't remember. I was away to the seashore, and when I came home I asked where he was, and they said he went to China.
Q. Before you were told that he had gone to China you had been in that place and had seen him there?
A. Yes, sir.
Q. How often?
A. He used to be there all the time. He was right there where the Pettie Memorial church is before he got the stand where he is now.

Cross-examination by Mr. FIELDING:

Q. Where did they do the washing?
A. In the back room. You can see right in there from the front.
Q. Isn't it dark in there?
A. Not very.
Q. Could you distinguish the figure of a man in there?
A. Yes, sir.
Q. During what year was it that you say you saw this defendant in there washing?
A. I didn't say I saw him there washing; I said working. I have seen him there in different years; I couldn't say what year.
Q. When was it that you saw him the last time in this laundry prior to the time when you were told he had gone to China?
A. I don't know what year he went to China. I have seen him in there since January.
Q. Do you remember about how many years ago it was? You see, it is very important for you to try to remember this.

A. I never took no interest in this. I have never taken
41 laundry work to any other place since I can remember, and this place has always been run under the name of John Sing

Q. There was a long period prior to the time when you were told he had gone to China that you did not see this defendant there?

A. Well, not so very long. I was away in the summer, and when I came back I inquired where John was.

By the COMMISSIONER:

Q How long ago was that—two or three years ago?

A. I can't say; I think it is more than that.

By Mr. FIELDING:

Q. Was it prior to 1891?

A. I think that is when he went away—somewhere around there.

Q. And after you had come back from your summer vacation you did not see him there?

A. I won't say that. I did not see him there when I came back.

Q. And you did not see him until January of this year?

A. Some time in January or after January.

Q. During all that period from the fall of 1891 until January of this year, you did not see him at that laundry?

A. No.

Q. Have you ever been to the place kept by Sam Palmer & Company?

A. No, sir.

Q. So you do not know whether this defendant was there or not during any of that time?

A. No, sir.

Q. Do you know whether the business of John Sing's laundry changed hands at any time?

A. The name was never taken down.

Q. Do you know anything about the way Chinamen conduct business?

A. No, sir.

Q. Did you ever know them to remove signs or change signs on Chinese laundries?

A. I never took no notice of that. The price-list, I know, is the same—John Sing.

Q. That sign had been there how many years?

A. I cannot say.

42 Q. From the time you first took laundry work there?

A. He is in a different store now.

Q. But that sign has been up ever since the laundry has been there?

A. Well, I guess it has.

Redirect examination by Mr. KOHLER:

Q. You do not recollect distinctly when it was that you were told that this man had gone to China?

A. No, sir.

Q. But you think it was in 1891?
A. Somewhere around there.
Q. Are you sure it was not 1893?
A. I won't say. It might be that.
Q. Is there anything that makes you more certain it was 1891 instead of 1893?
A. No, sir.
Q. When you said before that you thought it was in that period, you were referring to the time when you were told he went to China?
A. Yes, sir.
Q. How long before was it that you were told he went to China?
A. About four months.

GEORGE W. SCHENCK sworn and examined as a witness for the Government.

By Mr. KOHLER:

Q. Where do you live?
A. 588 Broad street, Newark.
Q. What is your business?
A. Janitor at 588 Broad street.
Q. Do you know what the business is that is carried on at 590 Broad street?
A. Yes, sir; it is a laundry.
Q. What is the sign that is up there?
A. John Sing laundry.
Q. Have you ever seen this defendant in that place?
A. Yes, sir.
Q. When last?
A. I have not seen him there since January, I guess, or the first of February.
Q. But you did see him there in January?
A. Yes, sir.
43 Q. Have you seen him there since you saw Inspector Scharf?
A. No, I don't think I have. I saw him there just before, though.
Q. How long ago was it that you saw Inspector Scharf?
A. About the middle of January.
Q. How long before that had you seen this defendant?
A. I have seen him since he came back.
Q. When did he come back?
A. In August last, I think.
Q. Have you seen him in the laundry?
A. Yes, sir.
Q. What was he doing?
A. I saw him ironing the last time.
Q. How often have you seen him ironing in there since he came back?
A. I haven't seen him very often since he came back.

Q. Well, about how often?
A. I don't remember seeing him more than once or twice—once, I know.
Q. And you are sure this is the man (pointing to defendant)?
A. Yes, sir; John Sing.
Q. Well, is this the man that you speak of as John Sing?
A. Yes, sir; that is the man.

Cross-examination by Mr. FIELDING:

Q. Have you any doubt about that in your mind?
A. That is the man that goes by the name of John Sing.
Q. You have no difficulty in telling the difference between Chinamen?
A. Not him; I have seen him too often.
Q. Isn't there a possibility that you are mistaking him for some relative of his?
A. No, sir.

By the COMMISSIONER:

Q. Have you any doubt in your mind that this is the man?
A. No, sir.
Q. You saw him after he came back from China?
A. Yes, sir; and I saw his trunk or boxes when he came back.

44 By Mr. FIELDING:

Q. When did he come back?
A. In August of last year.
Q. When did he go to China?
A. In 1893, I think.

By Mr. KOHLER:

Q. You said something about seeing this man's trunk.
A. Yes, sir. They came there a day ahead of him, I think.
Q. And were the trunks taken into that place?
A. Yes, sir.
Q. And the next day you saw him there?
A. Yes, sir.

By Mr. FIELDING:

Q. How do you know they were his trunks?
A. Well, I was told they were.
Q. Who told you they were his trunks?
A. Well, different ones; they said John is coming back.
Q. Who said that?
A. I cannot name them.
Q. Did they say they were this defendant's trunks, or that they were simply John's trunks?
A. John Sing's trunks.
Q. Is not the name "John Sing" the name of the laundry?
A. No, sir; it is the name of the man that runs it.

Q. Do you know of your own knowledge that the name on the outside of the laundry is the name of an individual or the name of the business?

Objected to on the ground that the witness has not qualified as an expert. Objection sustained.

Q. That is all you can say about these trunks being the property of this defendant—that somebody told you they were the trunks of John Sing?

A. Yes, sir.

By the COMMISSIONER:

Q. And the next day you saw John there?

A. Yes, sir.

45 By Mr. FIELDING:

Q. Did you see anybody else come there the next day—any other Chinaman?

A. I didn't notice anybody else but him.

Q. But there might have been somebody else there?

A. Yes, sir; but this (pointing to defendant) is the man I am talking about.

Q. And you had not seen this man for several months before these trunks arrived there, and you did see him the day after?

A. Yes, sir.

Adjourned until 3 o'clock p. m.

Reconvened at 3 p. m.

Present: Mr. Kohler, for Government; Mr. Beecher, for defendant.

LI SING, the defendant, recalled.

Witness testifies through interpreter, Dr. Thoms.

By Mr. BEECHER:

Q. Do you know a man named Richard J. Crowley?

A. No, sir.

Q. Mr. Crowley says he has a place of business as a plumber at 552 Broad street, Newark. Do you remember ever seeing him or having any talk with him?

A. No, sir.

Q. Mr. Crowley says that you called upon him in January with another Chinaman and offered him money if he would testify that you were a merchant. Is that true?

A. No, sir.

Q. Did you ever offer any one any money to testify in your behalf that you were a merchant?

A. No, sir.

Q. Do you know a police officer on the Newark police force by the name of John D. Wood?

A. No, sir.

46 Q. What was the name of the laundry which you formerly owned on Broad street?

A. John Sing.

Q. And when you sold your laundry out, as you have already testified, was the name retained by the purchaser, John Sing?

A. Yes, sir.

Q. When laundries are sold by the laundrymen the purchaser retains the old name?

Objected to. Objection sustained.

Q. While you were engaged in the laundries prior to 1891, do you know whether your American customers coming in called you by the name of John Sing or not?

A. Yes.

Q. Had you heard the other laundryman in the laundry called John Sing?

Objected to as incompetent and immaterial. Objection sustained. Exception.

Defendant's counsel states that he offers to prove by this line of testimony that the term John Sing was not the name of this defendant, was only the name of the laundry and was applied indifferently to any or all of the occupants in the laundry by customers.

Counsel for Government does not acquiesce in any general offer to prove anything of that kind, and will object to particular questions which are asked as being incompetent.

Q. Have you heard any other Chinamen in this laundry referred to herein called by the name of John Sing?

A. Yes.

Q. How many other Chinamen have you heard called John Sing in that laundry? Tell the names of the Chinamen who you have heard called by that name, John Sing?

A. Li Sing is one; his brother.

Q. What is your brother's name?

A. Li Sing.

Q. What is your name?

A. Li Sing.

Q. Write first your name and then your brother's name.

Witness writes two names in Chinese on a piece of paper.

47 Q. Which is your name and which is your brother's?

A. The first one is his name and the second one his brother's.

Counsel for defendant offers the paper in evidence.

Marked Exhibit 7, the numbers 1 and 2 on the exhibit referring to the name of the defendant and that of his brother respectively, both of which would be spelt in English Li Sing.

Q. Can you give me the translation of the name Li Sing, which is the name of the defendant?

The INTERPRETER: Li is the surname of the family. Sing means he completion of anything or anything that has been done or fixed. 'hat is the defendant's name. The other one means anything that s prosperous, advantageous.

Mr. BEECHER: So that although the names are pronounced the ame there is a difference?

The INTERPRETER: They are pronounced the same, yes, but an ntirely different meaning.

Mr. BEECHER: In Chinese they have a character for each ord?

The INTERPRETER: Yes; a character for each word.

Q. Where is your brother now?
A. He has gone back to China.
Q. When?
A. Last year.
Q. 1896?
A. Yes, sir.
Q. You were acquainted with Philip A. Gifford?
A. Yes, sir.
Q. But you do not know the man Richard J. Crowley or John D. Wood?
A. No, sir.
Q. Do you know a colored man named George W. Shenck, who ived at 588 Broad street?
A. Yes.
Q. How long have you known him?
A. I knew him for several years—five or six years before he went way.
Q. Have you met him since he came back?
A. Yes; I met him once in my brother's place.
Q. He says that he has seen you working in a laundry 8 there. Is it true that you have been working in that laundry since you came back from China?
A. No, sir; I have only visited my brother.
Q. Have you worked in that laundry since you sold it to your rother in 1891?

Objected to on the ground that it cannot be shown, except by the stimony of credible white witnesses.
Decision reserved.

Cross-examination by Mr. KOHLER:

Q. Was your brother present at the time you had this conversa- on with George W. Shenck since you are back from China?
A. Yes.
Q. How long ago was that conversation?
A. Soon after I had returned from China.
Q. When was it that your brother went to China?
A. About the tenth Chinese moon.
Q. When is that?
A. About November.

JOSEPH C. THOMS sworn and examined as a witness for defendant.

By Mr. BEECHER:

Q. You have translated the two names of Li Sing and Li Sing that appear on Exhibit 7, have — not?
A. Yes, sir.
Q. And the translation which you have given is *is* as near as you can convert into English the two Chinese names referred to?
A. Yes, sir.

Cross-examination by Mr. KOHLER:

Q. Are those two names pronounced in the same way in Chinese?
A. Yes.
Q. In the same way?
A. The same way; yes.
Q. They are absolutely alike?
A. I would not say they are absolutely alike. The Chinese dialects are different in different localities, but in my locality, which is the same as this man's—that is, we are about fifty miles distant—they are pronounced the same way.
49 Q. Do you know this man's dialect?
A. Yes.
Q. You want to tell the commissioner then that these two names, which are written out and look differently, are pronounced in the dialect the same way in Chinese?
A. Yes, sir.
Q. So two persons, brothers in one family will have the names which are pronounced the same in Chinese, too?
A. It appears so.
Q. I am merely asking you?
A. Yes.

Redirect examination by Mr. BEECHER:

Q. Is there a difference in the inflection of the two words?
A. You might say this is a Sing and the other Sing. No. 1 we say Sing; No. 2 is Sing. I know the difference.
Q. Is there a difference in the inflection which is noticeable to a Chinaman?
A. Yes, sir.
Q. Then in the pronunciation, while the names are pronounced the same they are of a different inflection?
A. Yes.
Q. One with a rising and one with a falling?
A. Yes.
Q. Which is the rising?
A. No. 1 is a rising inflection.
Q. And No. 2?
A. Is a falling inflection.

Q. Is it not a fact that in Chinese there are a great many words which are pronounced the same except as to the inflection?
A. Yes.
Q. That is so with a great many words?
A. Yes.

Recross-examination by Mr. KOHLER:

Q. When you say they are pronounced alike you mean the inflection may be alike and yet not alike?
A. That is what it amounts to; yes.

By Mr. BEECHER:

Q. In the *the* inflection, is there such a difference so that a Chinaman would recognize the difference?
50 A. Any one who is educated would recognize the difference.
Q. You mean educated in Chinese?
A. Yes.

Counsel for defendant offers in evidence the affidavit of Li Sing, the defendant; of Sam Palmer a Chinaman; of Li Cheong, also a Chinaman; of Charley Li, another Chinaman; of Lee Gang, another Chinaman, and Li Seu, another Chinaman, with the same force and effect as if they had been called and testified here.

Objected to on the ground that under section 2 of the act of 1893, the fact therein referred to cannot be established by the testimony of Chinese witnesses, but must be established by the testimony of credible white witnesses other than Chinese; on the further ground that under the same section the fact as to business being conducted, in the language of the statute must be established by the firm books themselves.

Decision reserved.

Marked for identification Exhibit 8.

The cases in which the commissioner has reserved his ruling are made the basis of separate motions to strike out that testimony on behalf of the Government.

In case the commissioner should grant those motions, an exception is given in each instance to the defendant.

Counsel for defendant moves to dismiss proceedings at the opening of the case upon the ground that the action of the collector, in admitting the defendant, is conclusive upon the Government; second, upon the ground that the statute requiring the defendant to assume the affirmative is unconstitutional and void, and on such other grounds as were made in the Li Foon case.

51 Counsel for Government asks for an order of deportation.

Counsel for defendant requests an adjournment.

Adjourned to Tuesday, June 22, 1897, at 3 p. m.

NEW YORK, *June* 24, 1897.

Present: Max J. Koehler, assistant United States attorney, for the Government; Samuel Scoville, for the defendant; and the defendant.

The COMMISSIONER: Upon all the evidence herein, treating all the evidence objected to by the United States attorney on which I reserved decision as in, I am of the opinion upon the conflicting testimony that the defendant is a Chinese laborer, was such at the time he departed from China and for a term of years prior thereto, and was such since his return from China last year. If it were necessary to decide the Government's motion to strike out testimony objected to, I should sustain the objection and hold that the provisions of section 2 of the act of 1893 applied to it. I must, therefore, order his deportation.

The accused is therefore held by the commissioner for deportation.

52 FOR IDENTIFICATION, EXHIBIT No. 8. J. A. S., U. S. Comm'r.

U. S. Circuit Court.

UNITED STATES
vs.
LI SING.

CITY AND COUNTY OF NEW YORK, *ss:*

Li Sing, being duly sworn, says: I came to the United States eighteen years ago. After a short stop in San Francisco I came to the city of Newark, N. J. When I first came to Newark I went into partnership with my brother Li Zing in the laundry business, of which we were the proprietors. After three years I returned to China remaining about one and a half years. I then came back to Newark and entered into partnership with Lee Ging in the laundry business, of which we were proprietors, and in which we employed others as workmen. I remained continuously at Newark until the summer of 1893. When I again revisited China, returning to this country in the summer of 1896. Early in the summer of 1891 I sold out all of my interest in the laundry business to my brother, Li Zing. I have never since then had any interest in the laundry business or been connected therewith in any manner.

In about the year 1887 I bought an interest or share in the grocery firm of Sam Palmer & Co., of Newark, N. J., paying the sum of $1,200 therefor; this was paid in different installments
53 from time to time. When I first bought this share or interest I did not take part in the management of the business, but when I sold out my interest in the laundry then I entered the store of Sam Palmer & Co. and gave all of my time to that business. Our business was and is a general Chinese grocery business, our customers being almost altogether Chinese. Since 1891 I have not

been a laborer or in any manner engaged in laboring, except as to such matters as are incidental to my grocery business.

My partners in Sam Palmer & Co. are Sam Palmer, Li Yuen, Li San, Li Wong and Li Ki Wch. When I revisited China in 1893, it was for the purpose of visiting my friends and relations there again, also in the interest of my firm, purchasing Chinese goods for them, which I had shipped to the United States. It was my intention to return again to Newark.

Before leaving in 1893, I applied at the Chinese consulate in New York, and procured from the Chinese consul a certificate such as were then in use and as then required for Chinese wishing to visit China and return. This certificate is the kind that is still in use; this I had countersigned by the United States official at the custom-house in New York. This was again countersigned by the United States consul at Hong Kong. I annex said certificate hereto. Upon my return to this country I presented myself to the deputy collector at Malone and produced to him my certificate. After investigating the facts in my case he *directed* that I was entitled to re-enter and permitted me to do so. It was my intention to return to this country to resume my business as a merchant and it was not my intention to resume the laundry business in any manner. I have frequently visited my brother at his laundry since my return back, socially and as a customer, as I sell his firm goods, but have never been engaged therein as a laborer in any manner. I
54 also have a small interest in the firm of Quong, Yet & Co., 3 Doyer street, New York city.

his
LI x SING.
mark.

Sworn to before me this 1st day of June, 1897, after being interpreted by J. C. Thoms.

FRED'K W. FIELDING,
Notary Public, Queens Co., N. Y.

Cert. filed in N. Y. Co., N. Y.

U. S. Circuit Court.

UNITED STATES }
vs. }
LI SING. }

CITY AND COUNTY OF NEW YORK, *ss.*:

Sam Palmer, being duly sworn, says: I am the senior partner of Sam Palmer & Co., a Chinese grocery in Newark, N. J. My firm is Sam Palmer & Co.; have been merchants engaged in the grocery business for over twelve years.

I am well acquainted with Li Sing, and have known him for about fifteen years. I knew him well when he was engaged in the laundry business in Newark. He was at first in partnership with his brother, Li Zing. After returning from a visit to China, and

somewhere about 1886 or 1887, he went into partnership
55 with Lee Gang. In 1891, Li Sing sold out his interest in the laundry business to his brother, Li Zing. When he closed out his laundry business, he became a partner in my firm of Sam Palmer & Co., contributing $1,200 to the capital of that firm. He has been a member of my firm ever since. Our customers are almost wholly Chinese, most of them being laundrymen; the members of my firm have to visit among the laundrymen a good deal, so as to secure and keep their trade. Li Sing was accustomed to visit the laundries in Newark once or twice a week.

In the summer of 1893 Li Sing returned to China on a visit, but did not dissolve his connection with our firm. He returned with his son in the summer of 1896, and resumed his duties with our firm.

The partners in Sam Palmer are myself, Li Sing, Li Wong, Li Yuen, Li Ki Wah and Li San.

To the best of my knowledge and belief, Li Sing has not in any way been connected with any laundry business since he became a member of my firm, and I believe that I would have known it if he had. I know also that he has an interest in the firm of Quong Yet, merchants, 3 Doyer street, New York.

SAM PALMER.

Sworn to before me this 2d day of June, 1897.

W. C. BEECHER,
Notary Public, Kings Co.

Cert. filed in N. Y. Co.

56 U. S. Circuit Court.

THE UNITED STATES }
vs. }
LI SING. }

CITY AND COUNTY OF NEW YORK, *ss:*

Li Cheong, being duly sworn, says: I am a resident of Newark, N. J., living at 210 Mulberry street. I have lived there for the last eight years. I have known Li Sing ever since I have been in Newark; when I first knew him he was a partner of Li Gang; they owned a laundry in Newark.

A year or two after I first became acquainted with him, he sold out his share in the laundry and became a member of the firm of Sam Palmer & Co., of the same city. I know that firm very well and have been one of their regular customers. They are merchants in the grocery business. I have often seen Li Sing in their store and have dealt with him. The active members of the firm have often spoken to me about Li Sing being their partner. He is known generally among the Chinese residents of Newark, as being a member of that firm.

I have seen a great deal of him since 1891 (except when he went

to China in 1893), and have never heard of his being in any way connected with the laundry business, nor have I ever seen him do any work in connection therewith.

LI CHEONG.

Sworn to before me this 3d day of June, 1897.

W. C. BEECHER,
Notary Public, Kings Co.

Cert. filed in N. Y. Co.

57 U. S. Circuit Court.

UNITED STATES
vs.
LI SING.

CITY AND COUNTY OF NEW YORK, *ss:*

Charley Li, being duly sworn, says: That he lives at 35 William street, Newark, N. J. That he has known Li Sing for about seven years. When I first became acquainted with him he owned a laundry in Newark with his partner Lee Ging. About a year after I became acquainted with him he sold out his share in the laundry and joined the firm of Sam Palmer & Co., No. 64 Springfield avenue, Newark. Sam Palmer & Co. are merchants engaged in the Chinese grocery business, and have been for a great many years. I am well acquainted with the firm of Sam Palmer & Co., and have known them since 1890. I am frequently in this store, being a regular customer. I have frequently dealt with Li Sing in their store and bought goods of him, and seen him taking an active part in the management of their store. Sam Palmer and other members of the firm also have at different times stated to me that Li Sing was a partner in their firm.

I have never seen or heard of Li Sing having anything to do with the laundry business since he sold out in 1891.

his
CHARLIE x LI.
mark.

Sworn to before me this 3d day of June, 1897.

E. C. WINTRINGHAM,
Notary Public, Kings County, N. Y.

Certificate filed in N. Y. county.

58 U. S. Circuit Court.

UNITED STATES
vs.
LI SING.

CITY AND COUNTY OF NEW YORK, *ss:*

Lee Gong, being duly sworn, says: I live in Newark, N. J., where I have lived since 1881, except for a short time when I was in China.

I am well acquainted with the defendant Li Sing, and have known him since 1881. A part of the time I worked for him in his laundry; when he returned from his first visit to China, about the year 1886, I went into partnership with him in the laundry business, continuing in that business with him until 1891, when Li Sing sold out his interest in the laundry business to his brother Li Zing. Li Sing then went into the grocery firm of Sam Palmer & Co., in said city of Newark. I know that he was a partner in that business because I often bought supplies from him at their store, and Li Sing has often come to my laundry to sell goods. Li Sing has often come to our place to visit me and his brother and to sell us goods, both before he went to China and since his return. Since Li Sing sold out his interest in the laundry to his brother, in 1891, he has not had anything to do with our laundry; I am always at the laundry during working hours, and I know that he has never worked there since he sold out.

Li Zing (Li Sing's brother) went to China last fall on a visit and has not yet returned.

LEE GONG.

Sworn to before me this 2d day of June, 1897.

W. C. BEECHER,
Notary Public, Kings Co.

Certif. filed in N. Y. Co.

59 United States Circuit Court.

UNITED STATES
vs.
LI SING.

CITY AND COUNTY OF NEW YORK, *ss:*

Li Sen, being duly sworn, deposes and says: That he is a merchant by occupation and resides in Newark, New Jersey, and is a member of the firm of Sam Palmer & Co., doing business at No. 64 Springfield avenue, said city of Newark. That he has known the defendant herein for the past ten years. That during the year 1887 he was associated with this defendant as a silent copartner in the above-mentioned firm of Sam Palmer & Co., which firm then and at all times hereinafter mentioned was engaged in the business of furnishing laundry supplies and dealing in general Chinese merchandise. That in the year 1891 Li Sing became an active partner in the firm and represented said firm in all business transactions. That in the year 1893 said Li Sing went back to China and his place as an active partner in the above-mentioned firm was left vacant and that deponent was appointed as his successor and succeeded to all his duties and responsibilities representing said firm of Sam Palmer and Co. in all and sundry business transactions and dealings and taking the same active part in the firm's business affairs that Li Sing, his predecessor, had assumed.

his
LI x SEN.
mark.

Sworn to before me this 7th day of June, 1897, after being interpreted by J. C. Thoms.

FRED'K W. FIELDING,
Notary Public, Queens Co.

Cert. filed in N. Y. Co.

60 United States Circuit Court of Appeals for the Second Circuit.

In the Matter of the Petition of LI SING for Writs of *Habeas Corpus* and Certiorari.

To the United States circuit court of appeals for the second circuit:

Li Sing, the petitioner herein, hereby applies for the allowance of an appeal to the United States circuit court of appeals for the second circuit from the decision and judgment or order of the U. S. circuit court, entered herein on the 18th day of August, 1897.

Dated August 19, 1897.

W. C. BEECHER,
Attorney for Li Sing, 237 Broadway, New York City, N. Y.

The foregoing application is granted and appeal allowed.

Dated New York, August 19, 1897.

E. H. LACOMBE,
Judge of the U. S. Circuit Court of Appeals for the Second Circuit.

(Endorsed:) U. S. circuit court of appeals for the second circuit. In the matter of the application of Li Sing for writs of *habeas corpus* and certiorari. Application for and allowance of appeal.
61 W. C. Beecher, petitioner's, appellant's, attorney, 237 Broadway, N. Y. Due service of a copy of the within is hereby admitted. Dated Aug. 19, 1897. Wallace MacFarlane, U. S. att'y, attorney for appellee.

Let Commissioner Alexander take a recognizance in the sum of $500 with one sufficient surety for the appearance of appellant Li Sing in the circuit court of the United States for the southern district of New York upon the entering of a final order on the mandate of the circuit court of appeals herein. E. H. Lacombe, U. S. circuit judge. August 19, 1897. U. S. circuit court. Filed Aug. 20, 1897. John A. Shields, clerk.

UNITED STATES OF AMERICA,
Southern District of New York, } ss:

Be it remembered, that on the 19th day of August, A. D. 1897, before me, Thomas Alexander, one of the United States commissioners duly appointed by the district court of the United States, for the southern district of New York, in the second circuit, to take acknowledgments of bail, affidavits, and also to take depositions of witnesses in civil causes, depending in the courts of the United States, pursuant to the provisions of the acts of Congress in that be-

half, personally came Li Sing, principal, and James Naughton surety, and severally acknowledged themselves to owe to the United States of America, that is to say, the said Li Sing, the sum of five hundred dollars ($500), and the said James Naughton the sum of five hundred dollars ($500) separately, to be levied and made of their respective goods, chattels, lands and tenements, to the use of the said United States, if default shall be made in the condition following, to wit:

Whereas, the said Li Sing was detained in the custody of John H. McCarty, as United States marshal for the southern district of New York, under commitment and warrant of deportation issued by United States Commissioner John A. Shields, and a writ
62 of *habeas corpus* to said marshal was made returnable before Hon. E. Henry Lacombe, circuit judge, on the — day of ——, 1897, under which writ said Li Sing was brought before said circuit judge to inquire into the cause of his detention, and whereas, on the 18th day of August, 1897, the said E. Henry Lacombe, circuit judge, did make his final order dismissing said writ of *habeas corpus*, and remanding said Li Sing to the custody of the marshal, and whereas said Li Sing has appealed from said final order to the United States circuit court of appeals for the second circuit, and whereas said E. Henry Lacombe, circuit judge, did thereupon on August 19, 1897, order the said Li Sing to find sufficient bail in the sum of five hundred dollars ($500) for his appearance to answer the exigency and determination of said appeal, and to personally abide the final decision and determination of said circuit court of appeals in that behalf, in default of which said Li Sing remain in custody.

Now, therefore, the condition of this recognizance is such that if the said Li Sing shall duly personally appear in said United States circuit court for the southern district of New York to answer the exigency and determination of said appeal, and personally abide the final decision and determination of said circuit court of appeals and of said circuit court upon the mandate of said court of appeals, upon the conditions aforesaid, and upon the entering of said orders on said appeal, and obey and abide the order of said circuit court, and not depart without leave, then this recognizance to be void, otherwise to be and remain in full force and virtue.

his
LI x SING. [SEAL.]
mark.
JAMES NAUGHTON. [SEAL.]

Taken and acknowledged before me the day and year first above written.

THOS. ALEXANDER,
U. S. Com'r.

63 SOUTHERN DISTRICT OF NEW YORK, *ss:*

James Naughton, of the city of New York, being duly sworn, says: That he is worth the sum of two thousand dollars ($2,000) over and above all his just debts and liabilities.

JAMES NAUGHTON.

Sworn to before me this August 19, A. D. 1897.

THOS. ALEXANDER,
U. S. Com'r.

(Endorsed:) U. S. circuit court, so. district of N. Y. In the matter of the petition of Li Sing for writs of *habeas corpus* and certiorari. Bail bond. W. C. Beecher, att'y for petitioner, 239 Broadway, N. Y. city. U. S. circuit court. Filed Aug. 19, 1897. John A. Shields, clerk.

Bond for Damages and Costs.

Circuit Court of the United States of America for the Southern District of New York, in the Second Circuit.

In the Matter of the Petition of LI SING for Writs of *Habeas Corpus* and Certiorari.

Know all men by these presents, that we, Li Sing, principal, and James Naughton, surety, are held and firmly bound unto the
64 above-named United States in the sum of two hundred and fifty dollars to be paid to the said United States, for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated the 19th day of August, in the year of our Lord one thousand eight hundred and ninety-seven.

Whereas, the above-named Li Sing has prosecuted an appeal to the circuit court of appeals of the United States for the second circuit to reverse the order rendered in the above-entitled proceeding by the judge of the circuit court of the United States for the southern district of New York:

Now, therefore, the condition of this obligation is such that if the above-named Li Sing shall prosecute said appeal to effect and answer all damages and costs, if he shall fail to make said appeal good, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

his
LI x SING. [SEAL.]
mark.
JAMES NAUGHTON. [SEAL.]

Sealed and delivered and taken and acknowledged this 19th day of August, 1897, before me—

EDWIN C. WINTRINGHAM,
Notary Public, Kings Co.

Cert. filed N. Y. Co.

65 CITY AND COUNTY OF NEW YORK, *ss:*

Li Sing and James Naughton, being duly sworn, each for himself deposes and says: That he is worth the sum of five hundred dollars over and above all his just debts and liabilities.

his
LI x SING.
mark.
JAMES NAUGHTON.

Sworn to this 19th day of August, A. D. 1897, before me-

E. C. WINTRINGHAM,
Notary Public, Kings Co.

Cert. filed N. Y. Co.

(Endorsed:) U. S. circuit court, southern district of New York. In the matter of the application of Li Sing for writs of *habeas corpus* and certiorari. Bond for damages and costs on appeal to circuit court of appeals of the U. S., 2d circuit. W. C. Beecher, att'y for petitioner, app'l't, 237 Broadway, N. Y. city. I hereby approve of the within bond both as to form and sufficiency of surety thereon. Dated N. Y., Aug. 18, 1897. E. H. Lacombe, U. S. cir. J. Due service of a copy of the within bond is hereby admitted, Aug. 19, 1897. Wallace Macfarlane, U. S. att'y. U. S. circuit court. Filed Aug. 20, 1897. John A. Shields, clerk.

66 United States Circuit Court for the Southern District of New York.

In the Matter of the Petition of LI SING for Writs of *Habeas Corpus* and Certiorari.

And now comes the petitioner, Li Sing, by W. C. Beecher, his attorney, in connection with the petition of appeal from the order entered August 18, 1897, dismissing the writ of *habeas corpus* herein and directing that the petitioner be deported, and makes and files the following assignment of error.

The court erred in holding:

1. That the action of the collector in permitting petitioner to enter the United States did not bar subsequent proceedings for his deportation.

2. That the burden of proof was thrown upon petitioner to show his right to remain.

3. That the petitioner should be deported.

By reason thereof the petitioner prays that the said order directing that petitioner be deported be reviewed, and that your
67 petitioner be discharged from custody.

Dated N. Y., August 18, 1897.

LI SING, *Petitioner.*

W. C. BEECHER,
Attorney for Petitioner, Appellant,
237 *Broadway, N. Y. City.*

(Endorsed:) U. S. circuit court, so. dist. of N. Y. In the matter of the petition of Li Sing for writs of *habeas corpus* and certiorari. Assignment of error. W. C. Beecher, att'y for petitioner, appellant, 237 Broadway, N. Y. city. Due service of a copy of the within is hereby admitted Aug. 19, '97. Wallace Macfarlane, U. S. attorney. U. S. circuit court. Filed Aug. 20, 1897. John A. Shields, clerk.

U. S. Circuit Court.

LI SING, Appellant,
vs.
JOHN H. MCCARTY, Marshal, &c., Respondent.

It is hereby stipulated that the clerk of the U. S. circuit court may omit from the transcript and the clerk of the court of appeals need not print the exhibits herein, but either side may produce and read the same upon the argument of the appeal herein. This
68 stipulation is entered into without prejudice to the motion pending in the circuit court of appeals to dismiss the appeal.
Dated December 3, 1897.

W. C. BEECHER,
Attorney for Appellant.
WALLACE MACFARLANE,
U. S. Attorney.

UNITED STATES OF AMERICA, *ss:*

To United States of America and Hon. John H. McCarthy, marshal:

You are hereby cited and admonished to be and appear before the United States circuit court of appeals for the second circuit at the city of New York on the 17th day of September, 1897, pursuant to an appeal on the part of the petitioner herein, Li Sing, filed in the clerk's office of the circuit court of the United States for the southern district of New York, in a certain suit or proceeding entitled: In the matter of the application of Li Sing for writs of *habeas corpus* and certiorari to show cause, if any there be, why the decision of the U. S. circuit court, in the said appeal mentioned, should not be reversed, modified or corrected and speedy justice should not be done in that behalf.

Given under my hand at the city of New York in the southern district of New York on the 19th day of August, 1897.

E. H. LACOMBE,
Judge of the U. S. Circuit Court of Appeals for the Second Circuit.

W. C. BEECHER,
Att'y for Petitioner, 237 Broadway, N. Y. City.

69 UNITED STATES OF AMERICA,
Southern District of New York, } *ss:*

I, John A. Shields, clerk of the circuit court of the United States of America for the southern district of New York, in the second circuit, do hereby certify that the foregoing pages, numbered from one to eighty-four, inclusive, contain a true and complete transcript of the record and proceedings had in said court, in the matter of the petition of Li Sing for writs of *habeas corpus* and certiorari as the same remain of record and on file in my office.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district

of New York, in the second circuit, this fourth day of December, in the year of our Lord one thousand eight hundred and ninety-seven, and of the Independence of the said United States, the one hundred and twenty-second.

[SEAL.] JOHN A. SHIELDS, *Clerk.*

70 United States Circuit Court of Appeals for the Second Circuit.

In the Matter of the Petition of LI SING for Writs of *Habeas Corpus* and Certiorari.

It is hereby stipulated and agreed that the transcript of record herein be amended by the insertion of Exhibits "A" and "B," hereto annexed, which were inadvertently omitted from the return to this court and in the printed transcript of record.

Dated December 28th, 1897.

WALLACE MACFARLANE,
U. S. Attorney.
WILLIAM C. BEECHER,
Attorney for Relator, Appellant.

It is so ordered.
E. H. LACOMBE.

71 EXHIBIT "A."

The President of the United States of America to the marshal of the United States for the southern district of New York, and to his deputies or any or either of them:

Whereas, complaint on oath hath been made to me, charging that Li Sing did, on or about the 27th day of August, in the year one thousand eight hundred and ninety-six, at the southern district of New York, unlawfully enter the United States, being a Chinese person not authorized by law to enter the United States; that said Li Sing is a Chinese laborer, and has been such for several years last past, and presented no papers or certificate lawfully entitling him as such laborer to enter the United States, against the peace of the United States and their dignity, and contrary to the form of the statute in such case made and provided,

Now, therefore, you are hereby commanded in the name of the President of the United States of America, to apprehend the said Li Sing and bring his body forthwith before me, or some judge or justice of the United States, wherever in the State of New York he may be found, that he may, then and there, be dealt with according to law for the said offense.

Given under my hand and seal, this sixth day of January, in the year of our Lord one thousand eight hundred and ninety-seven.

JOHN A. SHIELDS,
United States Commissioner for the Southern District of New York.

WALLACE MACFARLANE,
United States Attorney.

72 EXHIBIT "B."

The President of the United States of America to the marshal of the United States for the southern district of New York, and to his deputies or either of them:

Whereas, complaint upon oath was duly made before me, a commissioner for the circuit court of the United States for the southern district of New York, charging one Li Sing, a Chinese person, with being then and there unlawfully within the United States, and the said Li Sing having been arrested and brought before me by the marshal of the United States for said district upon a warrant issued by me upon the said complaint, and it appearing upon an examination before me by the evidence presented that said Li Sing is a Chinese person who left China en route for the United States, and the said Li Sing having failed to establish to my satisfaction his lawful right to remain in the United States; and

Whereas, the said Li Sing having failed to make it appear to me that he is a subject or citizen of some other country;

Now, therefore, you and each of you are hereby commanded in the name of the President of the United States to remove the said Li Sing from the United States as provided by law.

Witness my hand and seal this 24th day of June, 1897.

JOHN A. SHIELDS,
Commissioner of the Circuit Court of the United States for the Southern District of New York.

(Endorsed:) U. S. circuit court of appeals for the second circuit. In the matter of the petition of Li Sing, &c. Stipulation and order. Wallace Macfarlane, United States attorney. U. S. circuit court. Filed Jan. 3, 1898. John A. Shields, clerk.

73 United States Circuit Court of Appeals for the Second Circuit, October Term, 1897.

Submitted March 7, 1898; decided April 7, 1898.

In the Matter of the Application of LI SING for Writs of *Habeas Corpus* and Certiorari. No. 93.

Appeal from the circuit court of the United States for the southern district of New York.

Before Judges Wallace and Shipman.

In June, 1893, Li Sing, then a resident of Newark, New Jersey, returned to China and took with him a certificate, issued by the imperial government of China at its consulate at New York, and signed by its consul, that he was permitted to return to the United States and was entitled to do so, and which, furthermore, styled him a wholesale grocer. This certificate was viséd in Hong Kong by the United States consul on June 27, 1896, when Li Sing was

about to return to this country. He thereafter returned by the way of Canada, presented the certificate to the United States collector of customs at Malone, New York, who cancelled it on August 28, 1896, and permitted him to enter the country. On January 6, 1897, the United States officer, who is called the Chinese inspector for the port of New York, represented in writing and under oath to John A. Shields, Esq., United States commissioner for the southern district of New York, that Li Sing had unlawfully entered the United States, was unlawfully within that district, and that he was and had
74 been for many years a Chinese laborer, whereupon he was brought before the commissioner for examination. The counsel for Li Sing insisted before the commissioner that by the action of the collector of customs at Malone, the question of the Chinaman's right to be and remain in this country was *res adjudicata*, and, furthermore, that he was a merchant. Testimony to this effect was given by Chinese witnesses exclusively, which was received by the commissioner, notwithstanding the objection of the attorney for the United States. The commissioner found upon all the evidence that Li Sing was at the time of the examination a Chinese laborer, was such at the time he departed for China and for a term of years prior thereto, and was such after his return from China in August, 1896, and simply ordered his deportation, and did not order imprisonment as a punishment or penalty. A writ of *habeas corpus* and a writ of certiorari were thereupon allowed by the circuit court for the southern district of New York upon Li Sing's petition, and after a hearing, the writ of *habeas corpus* was dismissed and the relator was remanded to the custody of the United States marshal for deportation. This appeal was taken by the relator from the order of the circuit court.

SHIPMAN, *Circuit Judge:*

The questions which can be presented upon the writ of *habeas corpus* relate to the jurisdiction of the commissioner and the legality of the order of deportation. It is claimed that he had no jurisdiction because the action of the collector at Malone was a finality, and that the relator cannot be detained because the provisions of the third section of the act of May 5, 1892 (27 Stat., 25) under which his examination was conducted, were in violation of the Constitution.

The proceedings for Li Sing's deportation were instituted by Inspector Scharf under section 12 of the act of May 6, 1882, as amended by the act of July 5, 1884 (23 Stat., 115), which provides that "no Chinese person shall be permitted to enter the United States by land, without producing to the proper officer of
75 customs the certificate in this act required of Chinese persons seeking to land from a vessel. And any Chinese person found unlawfully within the United States shall be caused to be removed therefrom to the country from whence he came." The required certificate in regard to persons not laborers, was specified in the sixth section of the same amended act, was to be obtained from the Chinese government by every Chinese person other than a laborer, who was about to come to the United States, and was for

the purpose of identifying the person and evidencing the permission of the government for his departure. The section provided that this certificate "shall be produced to the collector of customs of the port in the district in the United States at which the person named therein shall arrive, and afterwards produced to the proper authorities of the United States whenever lawfully demanded, and shall be the sole evidence permissible on the part of the person so producing the same to establish a right of entry into the United States; but said certificate may be controverted and the facts therein stated disapproved by the United States authorities."

It is not now contended that under sections 6 and 12, the opinion of the collector of customs in regard to the character of the certificate was final. "On the contrary, the implication of section 12 is strongly in favor of the view that the jurisdiction of the courts of the United States in the premises, was not intended to be interfered with." U. S. *v.* Jung Ah Lung (124 U. S., 621, 629).

Section 12 of the act of September 13, 1888 (25 Stat., 476), is the one upon which the relator relies. This act was passed to take effect, as a whole, upon the ratification of a treaty then pending between the United States and the emperor of China, which was never ratified. Section 12 of this act provided that "the collector shall in person decide all questions in dispute with regard to the right of any Chinese person to enter the United States and his decision shall be subject to review by the Secretary of the Treasury and not otherwise." If this section had gone into effect and had continued to be in effect until August 27, 1896, when the collector at Malone acted in the matter, his decision would have been
76 final. Nishimura Ekiu *v.* U. S. (142 U. S., 651, 660).

The treaty not having been ratified, a new act of October 1, 1888 (25 Stat., 504), was passed which, as stated in Wan Shing *v.* U. S. (140 U. S., 424), "declared that from and after its passage it should be unlawful for any Chinese laborer, who at any time before had been or was then, or might thereafter be, a resident within the United States and who had departed or might depart therefrom, and should not have returned before its passage, to return to or remain in the United States. And it further declared that no certificates of identity, under which by the act of May 6, 1882, Chinese laborers departing from the country were allowed to return, should thereafter be issued, and it annulled every certificate of the kind which had been previously issued, and provided that no Chinese laborer should be permitted to enter the United States by virtue thereof."

It will be noticed that section 4 of the statute of May 6, 1882, had provided for certificates of identity which could be given to Chinese laborers departing from this country and intending to return, and that this new statute of 1888 prohibited the future issuance of such certificates to the laboring class, so that "the result of the legislation respecting the Chinese would seem to be this, that no laborers of that race shall hereafter be permitted to enter the United States, or even to return after having departed from the country, though they may have previously resided therein and have left

with a view of returning; and that all other persons of that race except those connected with the diplomatic service, must produce a certificate from the authorities of the Chinese government, or of such other foreign government as they may at the time be subjects of, showing that they are not laborers, and have the permission of that government to enter the United States, which certificate is to be viséd by a representative of the Government of the United States." Wan Shing *v.* U. S., *supra.*

Section 3 of the act of October 1, 1888, provided that all the duties prescribed and powers conferred by section 12 of the
77 act of May 6, 1882, (already referred to), were made applicable to the provisions of the new act. It would seem from the contrariety between the acts of September and of October, 1888, that section 12 of the act of September 13, 1888, was not regarded as ever having gone into effect. U. S. *v.* Gee Lee (50 Fed. Rep., 271). We intend to express no opinion in regard to section 13 of that act.

The question is no longer a living one, for subsequently in the act of August 18, 1894, c. 301 (28 Stat., 390), Congress provided that " in every case where an alien is excluded from admission into the United States under any law or treaty now existing or hereafter made, the decision of the appropriate immigration or customs officers, if adverse to the admission of such alien, shall be final, unless reversed on appeal to the Secretary of the Treasury." This makes the decision a final adjudication only when adverse to admission. If the immigration or customs officer decides to allow the immigrant to enter, such decision has no more force as a controlling adjudication, when the question of right to be or remain in the United States comes before court or commissioner, than it had under section 9 of the act of 1882, as amended in 1884, which was before the Supreme Court in U. S. *v.* Jung Ah Lung, *supra*; *In re* Li Foon (80 Fed. Rep., 881), Lem Moon Sing *v.* U. S. (158 U. S., 538).

The relator asserts the unconstitutionality of the provisions of section 3 of the act of May 5, 1892, *supra*, which required a Chinese person who was arrested under the act to establish by affirmative proof his lawful right to remain in the United States, and of the provisions of section 2 of the act of November 3, 1893 (28 Stat., 7), which required a Chinaman to establish certain facts by the testimony of two credible witnesses, other than Chinese, upon an application for entrance into the United States, on the ground that he was formerly a merchant in this country. It appears from the return to the writ of certiorari that all the witnesses for the relator were Chinese, but that the commissioner excluded nothing
78 and decided upon the entire conflicting testimony that the defendant was a Chinese laborer. The question of the constitutionality of section 2 of the act of 1893, does not therefore arise upon this record. The question of the constitutionality of provisions akin to those in section 3 of the act of May 5, 1892, in regard to requirements of proof, was settled in Fong Yue Ting *v.* U. S. (149 U. S., 698, 729). The opinions of the Supreme Court in Wan Shing *v.* U. S. (140 U. S., 424), and in Wong Wing *v.* U. S. (163 U. S., 228),

are also suggestive upon the extent of the power of Congress to make provisions merely for the deportation of aliens who are deemed to be unlawfully in the country.

The order of the circuit court is affirmed.

William C. Beecher, for the appellant.

Max J. Kohler, assistant United States attorney, for the United States.

79 United States Circuit Court of Appeals, Second Circuit.

In the Matter of the Petition of LI SING for Writs of *Habeas Corpus* and Certiorari.

CIR: Please take notice that an order of which the annexed is a copy will be handed to Mr. William Parkin, clerk of the U. S. circuit court of appeals for the second circuit, at his office, room 135, P. O. building, New York city, N. Y., on Wednesday, April 27th, 1898, at 11 o'clock a. m., to be by him forwarded to the several judges of the circuit court of appeals who heard and decided the appeal herein for their signature.

HENRY L. BURNETT,
U. S. Attorney, P. O. Building, N. Y. City.

To William C. Beecher, Esq., attorney for relator.

80 At a stated term of the circuit court of appeals of the United States of America for the second circuit, held at the United States court rooms, in the city of New York, on the 29th day of April, in the year of our Lord one thousand eight hundred and ninety-eight.

Present: The Hon. William J. Wallace, Nathaniel Shipman, judges of the circuit court of appeals.

In the Matter of the Petition of LI SING for Writs of *Habeas Corpus* and Certiorari.

An appeal from the decision of the circuit court of the United States for the southern district of New York discharging the writs herein, taken herein by the above-named Li Sing on the 19th day of August, 1897, having come on to be heard, and due deliberation having been had thereon:

Now, on motion of Henry L. Burnett, United States attorney, of counsel for the United States, appellee, and on all the proceedings had herein, it is—

Ordered that said order and decree of the circuit court be, and it is hereby, affirmed; and it is further—

Ordered that a mandate issue to the circuit court of the United States for the southern district of New York accordingly.

N. S.

Endorsed: U. S. circuit court of appeals for the second circuit. In the matter of the petition of Li Sing for writs of *habeas corpus*

and certiorari. Notice and order for mandate. Henry L. Burnett, U. S. attorney, attorney for United States. A copy of the within is received this 23rd day of April. Dated New York, April 23, 1898. W. C. Beecher, attorney for appellant. United States circuit court of appeals, second circuit. Filed Apr. 29, 1898. William Parkin, clerk.

81 UNITED STATES OF AMERICA, } ss:
Southern District of New York, }

I, William Parkin, clerk of the United States circuit court of appeals for the second circuit, do hereby certify that the foregoing pages, numbered from 1 to 80, inclusive, contain a true and complete transcript of the record and proceedings had in said court in the matter of the petition of Li Sing for writs of *habeas corpus* and certiorari, as the same remain of record and on file in my office.

Seal United States Circuit Court of Appeals, Second Circuit.

In testimony whereof I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, in the second circuit, this 10th day of October, in the year of our Lord one thousand eight hundred and ninety-eight, and of the Independence of the said United States the one hundred and twenty-third.

WM. PARKIN, *Clerk.*

[Ten-cent U. S. internal-revenue stamp, canceled 10, 10, '98. W. P., cl'k.]

82 UNITED STATES OF AMERICA, *ss:*

[Seal of the Supreme Court of the United States.]

The President of the United States of America to the honorable the judges of the United States circuit court of appeals for the second circuit, Greeting:

Being informed that there is now pending before you a suit in which Li Sing is appellant and The United States is appellee, which suit was removed into the said circuit court of appeals by virtue of an appeal from the circuit court of the United States for the southern district of New York, and we, being willing for certain reasons that the said cause and the record and proceedings therein should be certified by the said circuit court of appeals and removed

83 into the Supreme Court of the United States, do hereby command you that you send without delay to the said Supreme Court, as aforesaid, the record and proceedings in said cause, so that the said Supreme Court may act thereon as of right and according to law ought to be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the first day of February, in the year of our Lord one thousand eight hundred and ninety-nine.

JAMES H. McKENNEY,
Clerk of the Supreme Court of the United States.

84 [Endorsed:] Supreme Court of the United States. No. 689. October term, 1898. Li Sing *vs.* The United States. Writ of certiorari. United States circuit court of appeals, second circuit. Filed Apr. 11, 1899. William Parkin, clerk.

85 Supreme Court of the United States.

LI SING, Petitioner,
against
UNITED STATES.

It is hereby stipulated, consented, and agreed that the certified copy of the transcript herein now on file with the clerk of this court be taken as a return to the writ of certiorari granted February 1st, 1899.

WM. C. BEECHER,
Att'y for Petitioner.
HENRY L. BURNETT,
Att'y for Respondent.

86 [Endorsed:] Supreme Court of the United States. Li Sing, petitioner, against United States. Stipulation. Beecher & Scoville, attorneys for petitioner; office and post-office address, 237 Broadway, borough of Manhattan, New York city, N. Y.

87 To the honorable the Supreme Court of the United States:

The record and all proceedings in the cause whereof mention is within made having been lately certified and filed in the office of the clerk of the honorable the Supreme Court of the United States, a copy of the stipulation of counsel is hereto annexed, and under the direction of counsel for the appellant said stipulation is certified as a return to this writ.

New York, April 12th, 1899.

[Seal United States Circuit Court of Appeals, Second Circuit.]

WM. PARKIN,
Clerk of the United States Circuit Court of Appeals for the Second Circuit.

[Ten-cent U. S. internal-revenue stamp, canceled 4, 12, '99. W. P.]

88 [Endorsed:] United States circuit court of appeals, second circuit. Li Sing *vs.* United States. Return to writ of certiorari.

89 [Endorsed:] File No., 17,274. Supreme Court U. S., October term, 1898. Term No., 195. Li Sing, petitioner, *vs.* The United States. Writ of certiorari and return. Filed April 20, 1899.

Endorsed on cover: Case No. 17,274. U. S. C. C. of appeals, 2nd circuit. Term No., 195. Li Sing, petitioner, *vs.* The United States. Filed January 21, 1899.